

ORDINARY COUNCIL MEETING

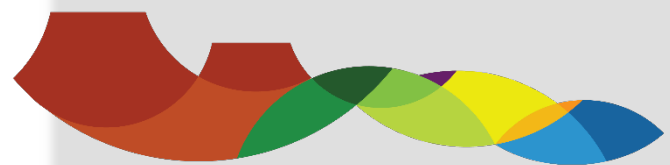
Confirmed Minutes

8.30am Thursday
17 November 2022
Council Chambers

November 2022

SHIRE OF CHAPMAN VALLEY
Jamie Criddle
CHIEF EXECUTIVE OFFICER

*"A thriving
community.
making the
most of our
coastline.
ranges and
rural
settings to
support us
to grow and
prosper"*



SHIRE OF
Chapman Valley
love the rural life!

DISCLAIMER



No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on WRITTEN CONFIRMATION of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

A handwritten signature in black ink, appearing to read 'Jamie Criddle', is positioned above the printed name and title.

Jamie Criddle
CHIEF EXECUTIVE OFFICER

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ORDER OF BUSINESS

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Shire President welcomed Elected members & Staff and declared the meeting open at 8:35am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

I would like to acknowledge the traditional owners of the land we are meeting on today, the Naaguja people, and we pay our respects to elders both past, present and emerging.

3.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

3.1 Attendees

Elected Members	In	Out
Cr Kirrilee Warr (President)	8:35am	10:00am
Cr Darrell Forth (Deputy President)	8:35am	10:00am
Cr Nicole Batten	8:35am	10:00am
Cr Beverley Davidson	8:35am	10:00am
Cr Elizabeth Elliott-Lockhart	8:35am	10:00am
Cr Catherine Low	8:35am	10:00am
Cr Trevor Royce	8:35am	10:00am
Officers	In	Out
Jamie Criddle, Chief Executive Officer	8:35am	10:00am
Simon Lancaster, Deputy Chief Executive Officer	8:35am	10:00am
Beau Raymond, Act/Manager Finance & Corporate Services	8:35am	10:00am
Visitors	In	Out
Nil		

3.2 Apologies

Nil

3.3 Previously Approved Leave of Absence (By Resolution of Council)

Cr Humphrey - November 2022 Ordinary Council Meeting.

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions on Notice

Nil

4.2 Public Question Time

Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE (by Resolution of Council)

Nil

6.0 DISCLOSURE OF INTEREST

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A:

“a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.”

Section 5.60B:

“a person has a proximity interest in a matter if the matter concerns –

(a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or

(b) a proposed change to the zoning or use of land that adjoins the person’s land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.”

Regulation 34C (Impartiality):

“interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.”

Item No.	Member/Officers	Type of Interest	Nature of Interest
10.1.1 & 10.1.2	Cr Royce	Proximity	Owner of adjoining land
10.1.3	Cr Low	Proximity	Leasee of adjoining land
10.3.1	Jamie Criddle	Financial Interest	Employee of which COVID policy applies.
10.3.1	Simon Lancaster	Financial Interest	Employee of which COVID policy applies.
10.3.1	Beau Raymond	Financial Interest	Employee of which COVID policy applies.

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

MOVED: Cr Forth

SECONDED: Cr Elliott-Lockhart

8.1 Ordinary Meeting of Council held on Thursday 20 October 2022

That the Minutes of the Ordinary Meeting of Council held Thursday 20 October 2022 be confirmed as true and accurate.

Voting F7/A0

CARRIED

Minute Reference: 11/22-01

9.0 ITEMS TO BE DEALT WITH EN BLOC

MOVED: Cr Batten

SECONDED: N/A

Council resolves to move the following items En bloc:

10.1.1, 10.1.2, 10.1.3 and 10.1.4

Voting: N/A

LAPSED

Minute Reference: N/A

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

10.1 AGENDA ITEMS

- 10.1.1 Coronation Beach Food Van
- 10.1.2 Proposed Water Sport Clinic
- 10.1.3 Proposed Farm Shed
- 10.1.4 Proposed Subdivision -

Cr Royce declared an interest in item 10.1.1 and vacated council chambers at 8:41am.

MOVED: Cr Forth

SECONDED: Cr Low

The council resolve to invite Cr Royce into chambers for discussion on item.

Voting F6/A0

CARRIED

Minute Reference: 11/22-02

Cr Royce returned to council chambers at 8:42am.

10.1.1 Coronation Beach Food Van

PROPONENT:	E Ward & S Foster
SITE:	Reserve 50066 Coronation Beach Road, Oakajee
FILE REFERENCE:	A1956 & 502.00
PREVIOUS REFERENCE:	7/99-35, 10/00-8, 10/20-04, 12/20-06, 11/21-03 & 09/22-06
DATE:	4 November 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
Nil			

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council approved the operation of a food van at Coronation Beach for a 12 month period at its 17 November 2021 meeting. The operators have written to Council seeking an extension of their approval. This report recommends that Council conditionally approve the food van for a further 12 months and issue delegated authority to the Shire CEO to issue further approvals beyond that time (for a period not greater than 12 months) in the event that no complaints or issues are raised with the operation of the food van.

COMMENT

The application for a food van at Coronation Beach was initially presented to the 16 December 2020 Council meeting.

The original application sought approval to site a food van at Coronation Beach from Thursday-Sunday 10:00am-3:00pm, and potentially also 5:00pm-8:00pm dependant upon demand. The applicant advised that it was not their intention to keep the food van at Coronation Beach when not in use, and that it would be parked at the applicant's property on Nanson-Howatharra Road approximately 10km east of Coronation Beach. The applicant also sought approval to set up 4 temporary gazebos when the food van was on-site with tables and chairs to provide shade for customers.

Council approved the Coronation Beach Food Van application at its 16 December 2020 meeting for a 12 month trial period. The Agenda from this meeting, that includes the originally received can be viewed at the following link, along with a second link to the 16 December 2020 Council Minutes to provide further background:

<https://www.chapmanvalley.wa.gov.au/documents/727/agenda-ordinary-council-meeting-december-2020>

<https://www.chapmanvalley.wa.gov.au/documents/731/confirmed-ordinary-meeting-of-council-december-2020>

Following discussions with Shire staff the location as illustrated in **Figure 10.1.1(a)** was selected for the siting of the food van due to its proximity to nearby gazebos, bins and toilets and as it would not reduce the number of available car parking bays.

During their trial period the operators found that it was not feasible to continually relocate the food van to their own property and sought Shire permission for it to remain on-site. Shire staff did not raise objection to this, considering that the purpose of the trial period was to enable the operators to explore how and whether the operation might be commercially feasible, and for the Shire (and the operators) to gauge which location might be suitable and not present issue to other reserve users, whether they were day use or overnight visitors, and to also assess whether the operations incurred additional servicing cost to Council that may need to be recouped.

Figure 10.1.1(a) – Location of Coronation Beach Food Van



The operators of the food van took longer than they anticipated to commence on-site due to issues with transporting the food van into Western Australia, upgrading it to meet the relevant legislative requirements, COVID restrictions and Cyclone Seroja. As a result the food van did not commence operations until May 2021. As a result the food van operators made application to Council seeking an extension of their trial period for a further 6 months to enable them to operate over the summer period to gauge whether the business might be commercially viable for them.

Council resolved at its 17 November 2021 meeting to extend the trial siting of a food van at Coronation Beach, subject to the original conditions of approval, until 30 November 2022. The minutes from this meeting can be viewed at the following link:

<https://www.chapmanvalley.wa.gov.au/documents/754/confirmed-ordinary-meeting-of-council-november-2021>

The applicant has now approached the Shire seeking a further extension of their approval as follows:

"Dear Councillors,

We are writing to request an extension on our lease to run a food van down at Coronation Beach and that this arrangement roll over each year (unless situations change and there is a reason for Council to deem otherwise).

We are still ticking along – winter was a bit disappointing with downturn of customers, as to be expected, but some weeks we make wages! We are looking forward to summer bringing more people as everyone gets back to international travelling after Covid restrictions. We also continue to promote local brands like Lirravale Eggs and now offer our own, Chapman Valley grown Breakaway Ridge Lamb on the menu (processed by Hagans Abattoir). Feedback is still overwhelmingly positive.

To the best of our knowledge there has been no issues relating to the operation of the food van at the site and we continue to comply with all council requirements.

We hope the Council continues to support our little endeavour by renewing our lease.

Yours Sincerely,

Elanor Ward and Sharrone Foster"

The Shire has received no complaints concerning the operation of the food van at since its commencement. It is considered that the business assists in the greater activation of Coronation Beach for campers, visitors, local community and recreational water users and therefore Shire staff raise no objection to the extension of the approval period

Figure 10.1.1(b) – View of Coronation Beach Food Van looking west from car park



STATUTORY ENVIRONMENT

Reserve 50066 has a management order issued to the Shire of Chapman Valley for the purpose of 'Camping and Recreation' with the power to lease (or sub lease or licence) the whole or any portion of the reserve for any term not exceeding 10 years.

Reserve 50066 is zoned 'Public Open Space' under the Shire of Chapman Valley Local Planning Scheme No.3. Table 1 of the Scheme lists the objectives for this zone as being:

- *To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s.152.*
- *To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage."*

Part 1 Section 4 of the *Planning & Development Act 2005* ('the Act') defines development as follows:

"development means the development or use of any land, including —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;*
- (b) the carrying out on the land of any excavation or other works;*
- (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —*
 - (i) is likely to change the character of that place or the external appearance of any building; or*
 - (ii) would constitute an irreversible alteration of the fabric of any building."*

Whilst the siting of a food van does not constitute a development as defined within parts (a)-(c) is still considered a development as by operating a commercial/retail activity from the land it does constitute the "use of any land".

The proposal is further considered to constitute the use of land as it is established for extended periods, and should therefore be viewed differently to a more transitory operation such as an ice cream van that is generally in motion and might typically only be stationary when hailed by customers, that might be able to be considered under the exemption provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*

-
- ...(j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;...*
- ...(m) *the compatibility of the development with its setting including –*
- (i) the compatibility of the development with the desired future character of its setting; and*
 - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following –*
- (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development*
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;...*
- ...(q) *the suitability of the land taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk...*
- ...(s) *the adequacy of –*
- (i) the proposed means of access to and egress from the site; and*
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) the history of the site where the development is to be located;*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*
- ...(z) *any other planning consideration the local government considers appropriate."*

POLICY/PROCEDURE IMPLICATIONS

The Shire of Chapman Valley Coastal Management Strategy and Action Plan (2016) identifies the objective for Coronation Beach as being:

"Land Use & Facilities

- Protection and enhancement of recreational activities popular in the area such as windsurfing, kiteboarding and longboarding.*
- The need to identify provision of facilities with appropriate controls to sustainably provide for tourist and recreational demands. (page 16)*

"To protect and enhance the ambiance and low impact character of Coronation Beach and to facilitate the continued recreational uses in the area." (page 61)

It is considered that the operation of a food van aligns with these objectives.

It is also noted that both the previous Kitewest food outlet proposal and the current food van proposal are facilities that can be removed from the site, or relocated elsewhere at Coronation Beach (rather than permanent structures) in the event that coastal erosion, or economic or compliance issues, or future Council requirements deem this necessary.

The Mid West Development Commission's 'Tourism Development Strategy' (2014) includes amongst its identified priorities, increasing the range of eco nature based tourism activities, attractions and experiences. The Economic Development element of the Commission's Mid West Blueprint (2015) notes the Mid West Tourism Potential as follows:

"The long term aspiration of this Blueprint is for the Mid West to attract one million overnight visitors (annually) by 2050. The Mid West would be highly developed as an inspiring nature based destination, that offers a wide range of high quality, year round experiences."

FINANCIAL IMPLICATIONS

The Shire charges an annual fee of \$500 for commercial operations at Coronation Beach.

The Shire also charges food outlets additional inspection fees in the event that inspections are required arising from matters of non-compliance with the requirements of the *Food Act 2008* and *Food Regulations 2009*.

The \$500 annual fee is intended to assist in cost recovery e.g. for any additional emptying of the skip bin or servicing of toilets and other facilities that are sited at Coronation Beach that may be required as a result of commercial demands.

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. It is not considered that the determination of this application would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

Council previously approved the operation of a food van at Coronation Beach, calling for expressions of interest at its 20 July 1999 meeting and again at its 17 October 2000 meeting.

After 2004 a food van has not been present at Coronation Beach (other than for approved one-off events such as windsurfing and surfing competitions or Shire Australia Day events) until the commencement of the current food van operator in May 2021 following approval by Council in December 2020.

The operation of food outlet(s) can be considered to align with Council's desire to see greater activation and servicing for campers and visitors at Coronation Beach, along with supporting its residents with their business ventures. It would also be in keeping with Council's previous approval of food van operators at Coronation Beach.

Council approved the application from the other existing commercial lessee (Kitewest) for the establishment of a food outlet at Coronation Beach at its 21 October 2020 meeting, that would consist of a sea container being sited alongside, and upgraded (including wood cladding, decking and shade sails) to match visually, their existing watersports school facility. At the time Kitewest advised that they would not be seeking to site the second sea container until November 2021 with a view to commencing operation of their food outlet for summer 2021/2022. Since that time the lessee has progressed their ideas but has not advanced to the stage of lodgement of building/health applications that are required prior to on-ground works and business commencement.

Council's 21 October 2020 resolution relating to the water sports lessee included specific notation that:

"The management licence issued to the applicant is not to be construed as the granting of an exclusive commercial use of the reserve, Council reserves the right to enter into management licences and/or other arrangements with other parties who may seek to conduct commercial activities at Coronation Beach."

Council's 16 December 2020 and 17 November 2021 resolutions relating to the food van operator also included notation advising that:

"This planning approval issued to the applicant is not to be construed as the granting of an exclusive commercial use and the local government reserves the right to issue approval to other parties who may seek to conduct commercial activities."

The intention of this advice was to make clear that Council's granting of approval should not be deemed to mean that it would not entertain approaches from other parties seeking to operate either a watersports school or food outlet at Coronation Beach.

The food van applicant themselves acknowledged the issue of Council's prior approval to the existing water sports lessee in their original correspondence as follows:

*"Points of consideration / difference with Kite West proposed business:
Though on the surface we appear to have a similar business in mind, it is likely that we will not be in direct competition as much as first thought. Firstly, Kite West caters primarily for the wind surfing crowd for which favourable conditions usually involve a lot of wind. We would be looking to utilise the calmer days with better weather, making for a more enjoyable customer experience. We also hope to (in time) run some late afternoon/ sundowner events (from 5 – 8 PM) that will run outside of current Kite West hours (9AM–5PM). In addition, we would be looking to do this in good weather (obviously intermittently!)"*

through the winter months, a time when Kite West School historically has not operated. An 8PM finish would allow for quiet at a reasonable time for campers.

We also believe we will have a point of difference in the food we offer with minimal pre-packaged foods on offer and a focus on good home cooked food, in a generous portion at a good price that will make it worth the drive! The idea behind the name of “The Home Cooks” for the business is that it allows us to be versatile in our offerings and take advantage of local food sources as they arise (and we cultivate relationships) but does not restrict us to one type of offering (e.g. Taco Van). Hopefully “The Home Cooks” evokes thoughts of wholesome rustic nourishing fare that is real, honest and above all, delicious! We envisage that in time, our online presence coupled with good reputation would entice potential customers to come out for a visit and supplement the casual visitors and campers that would comprise our normal customer base.”

Freedom of economic competition, preventing undue restraint of trade and impact on existing local businesses are issues that local governments are often forced to grapple with, particularly where arguments have been mounted that an existing retailing operation offers multiple services and employment to a local community, and when faced with an arriving competitor that offers a more limited service (in terms of products or hours of operation) that undermines their profitability, this can result in the existing service provider no longer being viable and the local community resultantly losing those associated services and employment.

Council can have some (limited) regard for this issue with Clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* listing the following matter to be considered by local government:

“(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.”

This is also an issue that Section 3.3.7 ‘Economic Competition’ of the Western Australian Planning Commission publication ‘Development Assessment Panel Training Notes – Making Good Planning Decisions’ (2011) addresses as follows:

“The threat of competition to existing businesses is not a relevant planning consideration. It only becomes a relevant planning consideration if there is a prospect that there will be a reduction in the facilities available to the community.

This was made clear in the High Court decision of *Kentucky Fried Chicken Pty Ltd v Gantidis* (1979) 140 CLR 675. In that case, Barwick CJ at [681] said that:

“economic competition feared or expected from a proposed use is not a planning consideration within the terms of the planning ordinance governing this matter”.

Stephen J at [687] noted that:

“...the mere threat of competition to existing businesses, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration.”

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
<i>Economy and Population</i>				
Objective 2.1 Build population and business activity with targeted strategies				
Strategy: Support business development, lifestyle changes and short/term accommodation				
2.1.1	Ensure planning is in place to encourage business development, promoting investment opportunities, Facilitate collaborative approach to attract staff within communities.	Short	Solid and appropriate planning is in place.	Retain and improve where necessary
Objective 2.2 Provide support for business development and local employment				
Strategy: Consider business start-up incentives				

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
2.2.1	Investigate possible planning improvements	Medium	Planning in place	Strategies in place and business initiatives developing
Objective 2.4 Ensure town planning scheme allows for economic development/population retention/growth				
Strategy: Town Planning Review for residential land, aged care facilities or business/industrial development opportunities				
2.4.1	Ensure planning is in place to encourage economic development activities, owned and rental accommodation and short stay opportunities	Medium	Solid and appropriate planning is in place.	Retain and improve growth opportunities where indicated

CONSULTATION

The Shire has not received any complaints concerning the food van's operations since its commencement in May 2021.

The Shire has the ability to monitor/seek feedback on the food van's operations on an ongoing capacity.

The Coronation Beach Planning Study (2002) that guided the Shire's development of the Coronation Beach Campground was based on extensive public consultation and Section 2.1-Consultation of the study noted that:

"There is a general presumption by existing users and key stakeholders with an interest in this coastal area, that Coronation Beach should be maintained for low-key tourist use (no major development), with informal camping/caravanning being one of the preferred activities." (page 3)

"The opportunity to upgrade facilities, including the provision of designated windsurf rigging area, shade shelters, additional ablutions, international signage, fire rings and barbeques, kiosk/information building, and improve carparking, traffic flow, beach access and general recreation areas." (page 6)

"Some opportunity exists for on-site servicing to support a small building such as a kiosk. The type of facility provided will depend on the level of management proposed for the Reserve (for example a full-time, on-site caretaker would require a different type of facility and different level of servicing to that of a seasonal operator of a kiosk facility only)." (page 20)

It is considered that the siting of a food van, whether occasional or permanent, is low-key in nature and does not conflict with the objectives of this study.

The relatively small footprint of the food van operations (and the ability to relocate it if required) is not considered to be prejudicial to the ongoing discussion in regards to the Coronation Beach Masterplan, and the low-key nature of the proposal aligns with the feedback of the Steering Group during this project.

RISK ASSESSMENT

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response

VOTING REQUIREMENTS

Simple majority required

Cr Royce vacated council chambers at 8:43am.

MOVED: Cr Batten

SECONDED: Cr Elliott-Lockhart

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council extend the approval for the siting of a food van (The Country Cooks Cornucopia) upon Reserve 50066 Coronation Beach Road, Oakajee subject to the following:

Conditions:

- 1 The approval is valid until 30 November 2023 after which time the application shall be reconsidered by the Shire Chief Executive Officer (under the delegated authority of Council) as to any impacts arising from the operation of the development in the local government's determination on whether to grant any extension to the approval period.
- 2 Any additions to or change of use of any part of the development (not the subject of this consent/approval) considered by the Shire Chief Executive Officer to represent significant variation from the approved development requires further application and planning approval for that use/addition.
- 3 The hours/days of operation of the food van being to the approval of the local government.
- 4 The location of the food van and associated shade/seating area being to the approval of the local government.
- 5 Maintenance of public access about the food van being to the approval of the local government.
- 6 The applicant shall ensure that the food van and immediate surrounding area is kept clean and tidy to the approval of the local government.
- 7 The applicant shall ensure that rubbish associated with the operation of the food van is managed to the approval of the local government.
- 8 The applicant shall ensure that wastewater generated while on-site is stored and disposed of into a suitable septic system or other approved system, and no wastewater is to be disposed of via the toilets/showers at Coronation Beach, or on the ground or into the ocean at Coronation Beach.
- 9 All furniture and objects (including, but not limited to, shade gazebos, chairs and tables) are to be well constructed/maintained and not a hazard (e.g. they should be able to withstand windy conditions).
- 10 No freestanding signs or hoardings advertising the operation of the food van are permitted to be erected whether temporary or permanent in nature unless approved by the Shire Chief Executive Officer.
- 11 The use of mechanical chimes or amplified music which could cause a noise nuisance is not permitted. The food van shall at all times comply with the *Environmental Protection (Noise) Regulations 1997*.
- 12 The food van shall comply with the requirements of the *Food Act 2008* and *Food Regulations 2009*.
- 13 The applicant must possess (and provide copy to the local government) public liability insurance cover of not less than \$10 million.
- 14 This approval is issued only to the applicant and is not transferable to any other party.
- 15 The applicant making payment to the Shire of the \$500 annual commercial fee for use of the location.

Notes:

- (a) In relation to condition 1 the applicant is advised that this approval is issued for a period of 12 months and the operation of this development will be monitored by the local government and should complaints arise and not be adequately managed to the satisfaction of the local government, then the local government reserves the right to terminate the approval period prior to the expiry date of 30 November 2023.
- (b) That Council delegate authority to the Shire Chief Executive Officer for the annual renewal of the approval should no written, author-identified complaints be received during the preceding 12 month period, and there being no change in the circumstances under which the previous approval was granted. In the event that written, author-

identified complaints are received in relation to the development this matter is to be returned to Council for further consideration.

- (c) In relation to condition 15 the applicant is advised that the \$500 amount covers the annual fee charged to commercial operators at Coronation Beach. However additional fees may be charged in the event that follow-up inspections are required arising from matters of non-compliance with the *Food Act 2008* and *Food Regulations 2009*.
- (d) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation and it is the applicant's responsibility to obtain any additional approvals required before the development commences.
- (e) This planning approval issued to the applicant is not to be construed as the granting of an exclusive commercial use and the local government reserves the right to issue approval to other parties who may seek to conduct commercial activities.
- (f) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

Voting F6/A0

CARRIED

Minute Reference: 11/22-03

Cr Royce returned to council chambers 8:44am

Cr Royce declared an interest in item 10.1.2 and vacated council chambers at 8:45am.

MOVED: Cr Forth

SECONDED: Cr Elliott-Lockhart

The Council resolve Cr Royce can remain in chambers for discussion on item.

Voting F6/A0

CARRIED

Minute Reference: 11/22-04

Cr Royce returned to council chambers at 8:46am.

10.1.2 Proposed Water Sports Clinic

PROPONENT:	King Wingfoil Centre
SITE:	Reserve 50066 Coronation Beach Road, Oakajee
FILE REFERENCE:	A1956
PREVIOUS REFERENCE:	12/21-02 & 09/22-06
DATE:	7 November 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2	Application		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to hold a water sports clinic at Coronation Beach from 27 December 2022 until 15 January 2023 providing wingfoil lessons. This report recommends approval subject to amendment.

COMMENT

Council previously approved the applicant to conduct wingfoil lessons between 26 December 2021 and 4 January 2022 (10 days) at Coronation Beach, at its 15 December 2021 meeting and a copy of the relevant minutes can be viewed at the below link:

<https://www.chapmanvalley.wa.gov.au/documents/755/title-agenda-ordinary-council-meeting-december-2021>

The applicant is now seeking approval to conduct wingfoil lessons between 10:00am and 6:00pm over 20 days from Tuesday 27 December 2022 to Sunday 15 January 2023 at Coronation Beach. Lessons would generally be 1 on 1 or at most small groups of 4-8 (maximum) people and would be approximately 1½-2 hours in length. The operation would require 1 van to be parked in the car park and the placement of water sports equipment on the beach. People not already staying at the campground taking lessons would also require car parking bays.

Figure 10.1.2(a) – examples of wingfoil activity



When the applicant previously applied in 2021 they sought approval to operate from a location towards the centre of Coronation Beach as illustrated in **Figures 10.1.2(b) and 10.1.2(c)**.

Figure 10.1.2(b) – Previous 2021 wingfoil clinic application location at Coronation Beach (windsurfing club can be seen at bottom of picture and kitesurfing school location at top)



Figure 10.1.2(c) – Previous 2021 wingfoil clinic application van parking and launching location looking west



The applicant is now seeking approval to operate from a location approximately 50m further north as illustrated in **Figures 10.1.2(d) and 10.1.2(e)**.

Figure 10.1.2(d) – Proposed 2022 wingfoil clinic application location at Coronation Beach (windsurfing club can be seen at bottom of picture and kitesurfing school location at top)

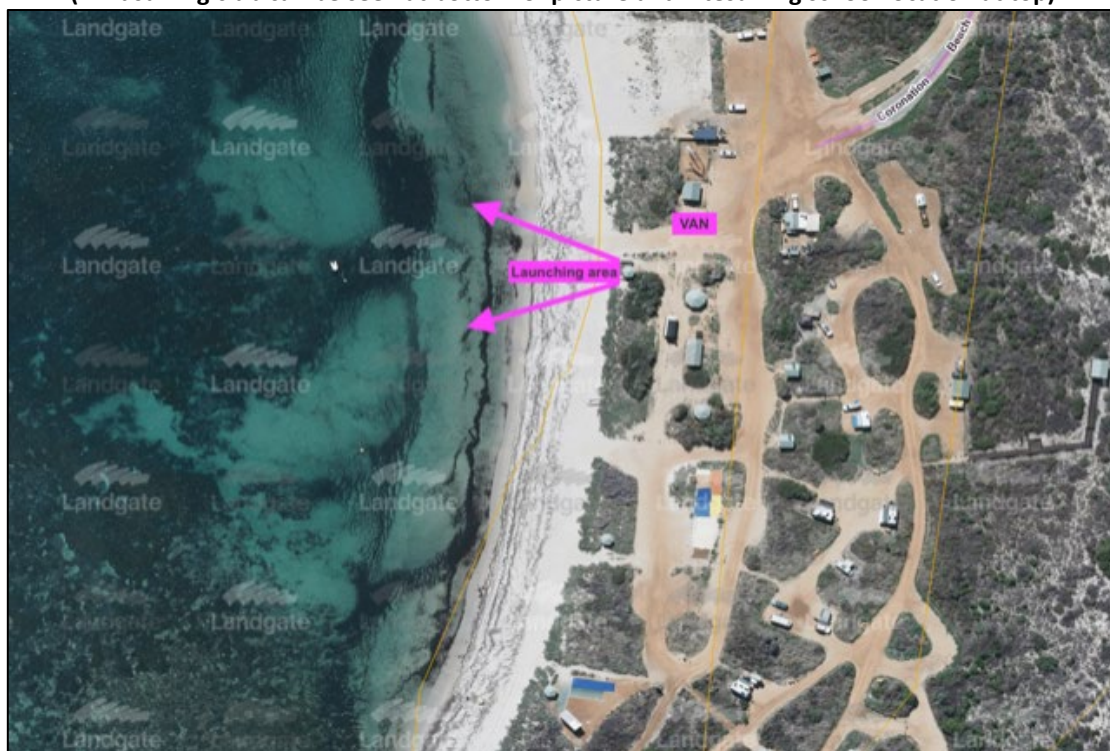


Figure 10.1.2(e) – Proposed 2022 wingfoil clinic application van parking and launching location looking west



The applicant has provide the following explanation for their wishing to change the location:

"The reason of that is shallow water and reef just at the front where we were launching last year. All wingers who coming to the beach are park and launching from this new maps area. This part have enough deep water to safety go out with foil under the board (between 70-85cm mast length). I believe there is enough room to follow safety rules. All beach classes will be provide 150m in South direction from boat launching. We need this area just to go to the water."

The new launching location would move the wingfoil operations further away from the windsurfing activities at the Windsurfing Club facility where the water is shallower and contains reef which interferes with the foils.

The proposed wingfoil location offers water still sufficiently shallow to suit people learning.

However, moving the wingfoil operations further north will move them closer to the kitesurfing activities at the Kitewest water sports school to the north, with a new separation distance of approximately 50m.

Figure 10.1.2(f) – Proposed 2022 wingfoil clinic van parking area looking north-west



Figure 10.1.2(g) – 2021 wingfoil launching area looking north toward proposed 2022 wingfoil launching area with kite surfing area further north of this



A copy of the received application, which includes copies of their accreditation, insurance certificate and Risk Management Policy has been provided as **separate Attachment 10.1.2**.

The proposed new location 50m further north would increase the potential for people learning to wingfoil drifting into the area where people are learning to kitesurf.

The parking of the wingfoil operator's van 25m south of the other water sports facility is considered to provide insufficient separation distance between vehicles parking to visit either business, and also give regard for vehicles parking more generally in this part of the day use area that are not associated with either business.

It is also noted that whilst generally people launching boats tend to do so earlier in the day than people undertaking water sports there is still a concern that the parking of the van in the proposed location would create an unsafe situation with people carrying water sports gear across the main throughfare used by vehicles with trailers to launch dinghies from the beach.

For this reason it is recommended that Council approve the application to hold wingfoil lessons, but subject to the van being parked in the location 50m further south as approved by Council in 2021 and not the location being sought by the applicant in 2022. The wingfoil launching would then be undertaken between the location where the van is parked and the gazebo south of the main boat launching access point as illustrated in **Figure 10.1.2(h)**.

Figure 10.1.2(h) – Recommended van parking location and wingfoil launching area



STATUTORY ENVIRONMENT

Reserve 50066 has a management order issued to the Shire of Chapman Valley for the purpose of 'Camping and Recreation' with the power to lease (or sub lease or licence) the whole or any portion of the reserve for any term not exceeding 10 years.

Reserve 50066 is zoned 'Public Open Space' under the Shire of Chapman Valley Local Planning Scheme No.3. Table 1 of the Scheme lists the objectives for this zone as being:

- “• To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s.152.
- To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.”

The holding of a water sports clinic would be in keeping with the intent of this zoning.

Part 1 Section 4 of the *Planning & Development Act 2005* ('the Act') defines development as follows:

- “development means the development or use of any land, including —*
- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;*
 - (b) the carrying out on the land of any excavation or other works;*
 - (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —*
 - (i) is likely to change the character of that place or the external appearance of any building; or*
 - (ii) would constitute an irreversible alteration of the fabric of any building.”*

Whilst the operating of a commercial activity such as a water sports business does not constitute a development as defined within parts (a)-(c) it should still be considered a development as by operating a commercial activity from the land it does constitute the *“use of any land”*.

Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(g) any local planning policy for the Scheme area;...*

- ...(j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;...*
- ...(m) *the compatibility of the development with its setting including –*
 - (i) *the compatibility of the development with the desired future character of its setting; and*
 - (ii) *the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following –*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;...*
- ...(q) *the suitability of the land taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk...*
- ...(s) *the adequacy of –*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*
- ...(zb) *any other planning consideration the local government considers appropriate.”*

POLICY/PROCEDURE IMPLICATIONS

Schedule 2 Part 2 Division 2 Clauses 3-6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

The Shire of Chapman Valley Local Planning Policy 7.2 – Event Application contains the following objectives:

- “3.1 *Encourage events that enhance a wide variety of opportunities to residents and visitors.*
- 3.2 *Protect the health and safety of persons attending events.*
- 3.3 *Provide an efficient and timely approval process and response.*
- 3.4 *Ensure compliance with regulatory requirements and standards.*
- 3.5 *Incorporate controls to minimise any adverse impacts of events and protect the amenity of residents in adjoining and nearby properties.”*

The Policy Statement also provides the following guidance for Councillors in its consideration of this application:

“The following issues will be considered by the Shire in the assessment and approval process of event applications:

- 6.1 *The nature, size and suitability of the event in relation to the venue requested (including the presence of alcohol) and the likely impact of the event on the facility.*
- 6.3 *The amenity of the event.*
- 6.3 *The ability of the facility to accommodate the event at the proposed time (taking into consideration weather and the condition of the land, if on a community reserve or public open space).*
- 6.4 *The likely impact on residents as a result of the event (including noise, dust, excessive light, or other adverse effects perceptible outside the venue).*
- 6.5 *The availability of the venue at the required time(s) and on the required day(s).*
- 6.6 *The period of time for which the event will operate and the proposed times of operation.*
- 6.7 *Conflict or potential conflict with other events in that location or a surrounding location.*
- 6.8 *The estimated number of participants associated with the special event in relation to the carrying capacity of the facility.*
- 6.9 *The benefits to the community.*

6.10 Reputation of the operator.

6.11 Any other factors that may be considered necessary in relation to a particular event.”

Both the ‘Event Application’ Local Planning Policy and the event application form can be viewed at the following link to the Shire website: <https://www.chapmanvalley.wa.gov.au/local-planning-policies.aspx>

FINANCIAL IMPLICATIONS

The Shire’s charges a one-off commercial fee of \$200 at Coronation Beach.

The applicant was made aware that the Shire charges an annual fee of \$500 for commercial operations at Coronation Beach in the event that they were considering lodging other one-off clinic applications within 12 months of the sought dates but have advised that they are choosing to lodge a one-off application due to other commitments in Perth.

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. It is not considered that the determination of this application would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Coastal Management Strategy and Action Plan (2016) identifies the objective for Coronation Beach as being:

“Land Use & Facilities

- *Protection and enhancement of recreational activities popular in the area such as windsurfing, kiteboarding and longboarding.*
- *The need to identify provision of facilities with appropriate controls to sustainably provide for tourist and recreational demands. (page 16)*

“To protect and enhance the ambiance and low impact character of Coronation Beach and to facilitate the continued recreational uses in the area.” (page 61)

It is considered that the holding of a water sports (wingfoil) clinic would align with these objectives.

Council resolved at its 18 May 2016 meeting to lease an area at Coronation Beach to enable a locally based operator (Kitewest) to operate a water sports school for a summer 4-month trial period. At the end of the trial period Kitewest sought to enter into a longer lease and Council resolved at its 17 May 2017 meeting to offer a 5 year lease. Council approved a further 5 year lease at its 17 June 2020 meeting, in response to the lessee’s request for an extension to provide them with greater financial certainty, and the current lease expires on 30 June 2027.

Council’s 21 October 2020 resolution in which it gave approval to the existing water sports school operator included specific notation that:

“The management licence issued to the applicant is not to be construed as the granting of an exclusive commercial use of the reserve, Council reserves the right to enter into management licences and/or other arrangements with other parties who may seek to conduct commercial activities at Coronation Beach.”

Council has been consistent in this advice at Coronation Beach with its 16 December 2020 and 17 November 2021 resolutions for the food van operator also including notation advising that:

“This planning approval issued to the applicant is not to be construed as the granting of an exclusive commercial use and the local government reserves the right to issue approval to other parties who may seek to conduct commercial activities.”

The intention of this advice was to make clear that Council’s granting of approval should not be deemed to mean that it would not entertain approaches from other parties seeking to operate either water sports commercial activities or food outlets at Coronation Beach. The Windsurfing Club (who also have a lease with the Shire for their Coronation Beach facility) have also held training events but these have been club run and not commercial operations.

Freedom of economic competition, preventing undue restraint of trade and impact on existing local businesses are issues that local governments are often forced to grapple with, particularly where arguments have been mounted that

an existing retailing operation offers multiple services and employment to a local community, and when faced with an arriving competitor that offers a more limited service (in terms of products or hours of operation) that undermines their profitability, this can result in the existing service provider no longer being viable and the local community resultantly losing those associated services and employment.

Council can have some (limited) regard for this issue with Clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* listing the following matter to be considered by local government:

“(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.”

This is also an issue that Section 3.3.7 ‘Economic Competition’ of the Western Australian Planning Commission publication ‘Development Assessment Panel Training Notes – Making Good Planning Decisions’ (2011) addresses as follows:

“The threat of competition to existing businesses is not a relevant planning consideration. It only becomes a relevant planning consideration if there is a prospect that there will be a reduction in the facilities available to the community.

This was made clear in the High Court decision of Kentucky Fried Chicken Pty Ltd v Gantidis (1979) 140 CLR 675. In that case, Barwick CJ at [681] said that:

“economic competition feared or expected from a proposed use is not a planning consideration within the terms of the planning ordinance governing this matter”.

Stephen J at [687] noted that:

“...the mere threat of competition to existing businesses, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration.”

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
<i>Community Health and Lifestyle</i>				
Objective 1.5 To maximise health and lifestyle outcomes through environment and health strategies				
Strategy: To adopt an integrated approach to the provision of services to address the wider health and wellbeing of the community.				
1.5.1	To develop and adopt a public health plan for the Shire of Chapman Valley	Short	Health Plan development in progress	There is a plan for public health that will support strategies and projects
<i>Economy and Population</i>				
Objective 2.1 Build population and business activity with targeted strategies				
Strategy: Support business development, lifestyle changes and short/term accommodation				
2.1.1	Ensure planning is in place to encourage business development, promoting investment opportunities, Facilitate collaborative approach to attract staff within communities.	Short	Solid and appropriate planning is in place.	Retain and improve where necessary
Objective 2.2 Provide support for business development and local employment				
Strategy: Consider business start-up incentives				
2.2.1	Investigate possible planning improvements	Medium	Planning in place	Strategies in place and business initiatives developing
Objective 2.4 Ensure town planning scheme allows for economic development/population retention/growth				
Strategy: Town Planning Review for residential land, aged care facilities or business/industrial development opportunities				

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
2.4.1	Ensure planning is in place to encourage economic development activities, owned and rental accommodation and short stay opportunities	Medium	Solid and appropriate planning is in place.	Retain and improve growth opportunities where indicated

CONSULTATION

Section 7.0 of the Shire of Chapman Valley Local Planning Policy 7.2 – Event Application provides for the advertising of a received event application should Council wish to consult with any party.

RISK ASSESSMENT

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response

VOTING REQUIREMENTS

Simple majority required

Cr Royce vacated council chambers 8:47am

MOVED: Cr Batten

SECONDED: Cr Elliott-Lockhart

COUNCIL RESOLUTION/ STAFF RECOMMENDATION

That Council approve the application from King Wingfoil Centre for the operation of a water sports (wingfoil) clinic upon Reserve 50066 Coronation Beach Road, Oakajee subject to the following:

Conditions:

- 1 The approval is valid from 27 December 2022 until 15 January 2023.
- 2 The van parking associated with the water sports clinic shall be in accordance with the location illustrated in Figure 10.1.2(h) as contained in the Council Agenda Report unless otherwise approved by the Shire Chief Executive Officer.
- 3 Any additions to or change of use of any part of the development (not the subject of this consent/approval) considered by the Shire Chief Executive Officer to represent significant variation from the approved development requires further application and planning approval for that use/addition.
- 4 Maintenance of public access about the water sports clinic being to the approval of the local government.
- 5 The applicant shall ensure that equipment and rubbish associated with the operation of the water sports clinic is managed to the approval of the local government and not provide a hazard.
- 6 The applicant must possess public liability insurance cover of not less than \$20 million.
- 7 The applicant must possess and implement a Risk Management Plan to the approval of the local government.
- 8 This approval is issued only to the applicant and is not transferable to any other party.
- 9 The applicant making payment of the \$200 fee to the Shire for use of the location.

Notes:

-
- (a) The applicant is advised that the operation of this development will be monitored by the local government and should complaints arise and not be adequately managed to the satisfaction of the local government, then the local government will give regard to this in its consideration of any future applications that may be lodged by the applicant.
 - (b) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation and it is the applicant's responsibility to obtain any additional approvals required before the development commences.
 - (c) This approval issued to the applicant is not to be construed as the granting of an exclusive commercial use and the local government reserves the right to issue approval to other parties who may seek to conduct commercial activities.
 - (d) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

Voting F6/A0

CARRIED

Minute Reference: 11/22-05

Cr Royce returned to chambers 8:48am.

Cr Low declared an interest in item 10.1.3 and vacated council chambers at 8:49am.

MOVED: Cr Forth

SECONDED: Cr Royce

The Council resolve to invite Cr Low into chambers for discussion on item.

Voting F6/A0

CARRIED

Minute Reference: 11/22-06

Cr Low returned to chambers 8:50am.

10.1.3 Proposed Farm Shed

PROPONENT:	Carimor Sheds for T & J Daly
SITE:	579 (Lot 306) Chapman Valley Road, Waggrakine
FILE REFERENCE:	A14
PREVIOUS REFERENCE:	12/12-6, 06/13-2, 02/16-3 & 09/21-05
DATE:	8 November 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3	Application		✓

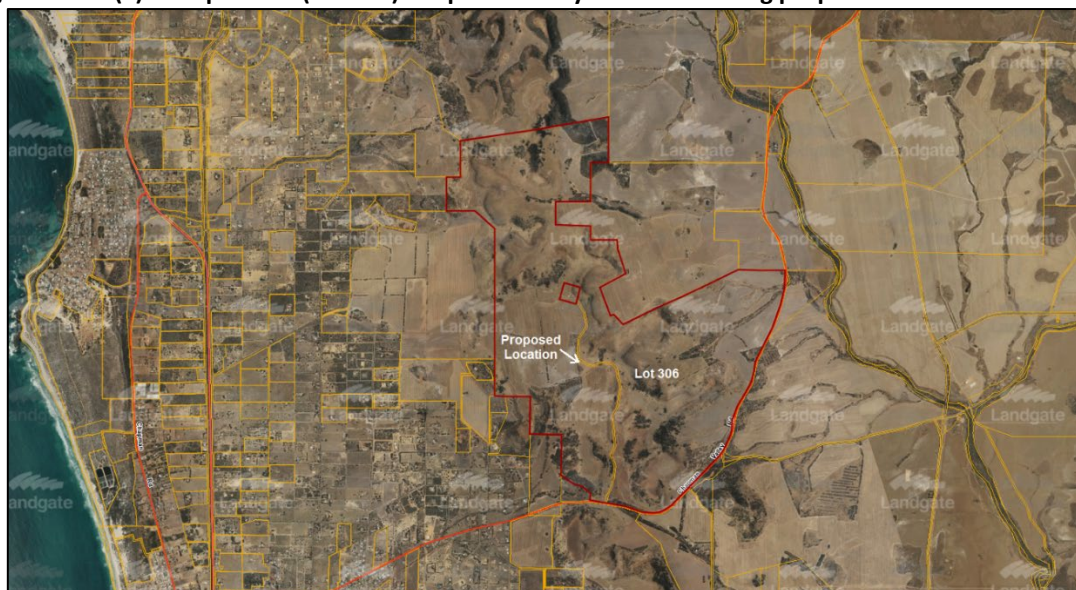
DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council approved an application for a 981.72m² farm shed upon 579 (Lot 306) Chapman Valley Road, Waggrakine at its 15 September 2021 meeting. An amended application has been received seeking approval to increase the outbuilding area to 1,224.72m². This report recommends approval of the application.

Figure 10.1.3(a) – Map of 579 (Lot 306) Chapman Valley Road illustrating proposed location of farm shed



COMMENT

Lot 306 is a 1,049.2953ha property located on the northern side of Chapman Valley Road. The property is largely cleared and used for cropping and grazing purposes with pockets of remnant vegetation upon the more steeply sloping areas and tributary lines upon the property.

The western boundary of Lot 306 generally aligns with the steeply sloping western face of the Moresby Range. The central portion of the property contains the flat topped area of the Moresby Range that extends eastwards for approximately 1½km before reaching the steeply sloping eastern face and lower foothills area that slopes downwards towards the north-south section of Chapman Valley Road as it commences its approach to the Chapman River/Fig Tree Crossing. The contours as shown on **Figure 10.1.3(b)** help to illustrate that the majority of Lot 306 is contained in the mesa area.

The access point for Lot 306 is a farm gate on the northern side of the east-west section of Chapman Valley Road as it passes through the Waggrakine Cutting. The gravel farm track that heads northwards from the gate provides the access into the property and onto the top of the Moresby Range, this is also the alignment for the access easement across Lot 306 for the 4 telecommunications masts atop the Moresby Range.

Figure 10.1.3(b) – Topography for 579 (Lot 306) Chapman Valley Road, Waggrakine



Council approved an application to construct a 24.3m x 40.4m (981.72m²) outbuilding with a 6.5m wall height and a 8.645m total height at its 15 September 2021 meeting. A copy of the minutes from this meeting can be viewed at the following link:

<https://www.chapmanvalley.wa.gov.au/documents/749/agenda-ordinary-council-meeting-september-2021>

The Shire subsequently issued a building permit for the farm shed on 21 December 2021, however, building works have not commenced to date.

The applicant lodged an amended plan on 3 November 2022 seeking to extend the length of the farm shed by 10m with a further 2 x 5m bays to take the floor area to 1,224.72m² (24.3m x 50.4m). The eastern elevation of the amended shed would have 8 sliding door segments instead of the previously approved 6. The height of the outbuilding would remain unchanged (6.5m wall height/8.645m total height) as would the proposed cladding (Dune coloured trimdeck walls, doors and roof).

The applicant is seeking to increase the floor area to better house the equipment and machinery that services their farm, and the internal area would comprise 408.6m² (20m x 24.3m) concrete floor and 729m² (30m x 24.3m) gravel floor areas, with the extended section being to the gravel floor area.

A copy of the amended application has been provided as **separate Attachment 10.1.3** along with site photographs taken from various points about the proposed shed location.

The outbuilding would remain setback 930m at its closest point from the top edge of the Moresby Range western face, and setback 450m at its closest point from the top edge of the south-western face of the Moresby Range (behind the Coffee Pot heritage building) which would assist in reducing its visual impact from these directions.

The outbuilding would be more visible from the east as it would be setback 150m at its closest point from the top edge of the Moresby Range eastern face, where a gully cuts into the steep slope. This would mean that the outbuilding would be able to be seen by vehicles travelling towards Geraldton along the section of Chapman Valley Road between the Morrell Road intersection and a point past the Pet Cemetery, and by vehicles travelling southwards along Morrell Road from the Chapman Valley Road intersection to a point near the East Chapman Road intersection.

Figure 10.1.3(c) – Proposed outbuilding location relative to existing structures upon Lot 306 Chapman Valley Road

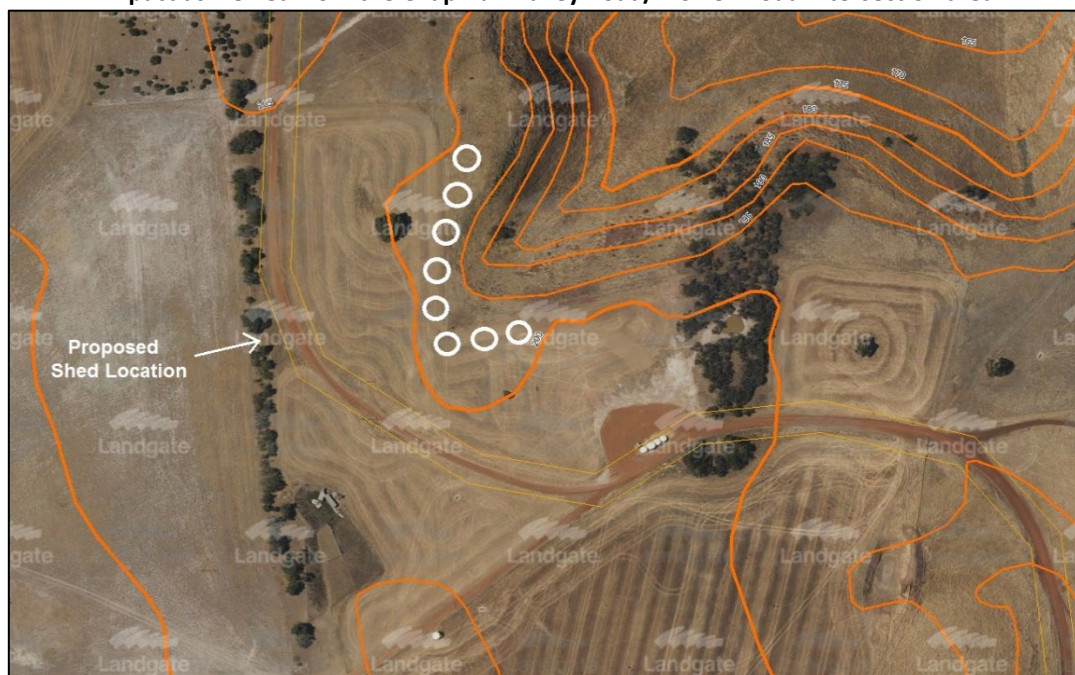


It is considered that the amended application can be supported on the following basis:

- the outbuilding is required for the running of the farm that is the primary land use for this property;
- the outbuilding would be sited 90m north-west of an existing open sided outbuilding;
- the outbuilding would be 540m from the closest of the 4 telecommunications masts and would appear to be in general proximity to existing built structures when considered in the overall scale of the property;
- the applicant is seeking to locate the outbuilding in a position where it would be setback 930m from the top edge of the western face of the Moresby Range to reduce the visual impact of the outbuilding as viewed from the more populated Geraldton-side of the Moresby Range, and also setback 450m from the top edge of the south-western face to reduce its impact as drivers travel through the Waggrakine Cutting section of the Chapman Valley Road scenic drive;
- the outbuilding would have Dune coloured wall and roof cladding (rather than reflective materials) to assist in reducing its visual impact;
- there is ability for Council to impose condition of approval requiring the landowner to undertake landscaping, with a suggested location being at the head of the gully where the steep slope of the Moresby Range eastern face is at its closest point to the outbuilding as shown on **Figure 10.1.3(d)**. Whilst this tree planting would not screen the outbuilding entirely it would soften its appearance as viewed from the general area about the Morrell Road/Chapman Valley intersection and Pet Cemetery;
- whilst visible, the farm shed would be setback some distance from the road, being 5.7km south-west of the Morrell Road/Chapman Valley Road intersection and 3.6km south-west of Chapman Valley Road near the pet cemetery which is the stretch of Chapman Valley Road the farm shed would be most visible from;
- the outbuilding would provide a secure storage area out of the weather for the farm's equipment and machinery and it might be considered that it would be preferable to have these items stored in one building rather than spread more haphazardly along the skyline;

- the Moresby Range Management Strategy does make some allowance for permitting development on the flat tops where it can be demonstrated that such development is consistent with the objectives of this strategy, and it might also be considered that sensitively sited development upon the flat top might be less visually intrusive in certain circumstances than on the side slopes.
- the previously approved farm shed is of a significant size being 981.72m² which means it will be noticeable as a change in the landscape when first constructed, the proposed increase in the wall length by 10m (from 40.4m to 50.4m) will add to this impact but not unduly given the overall scale and location of the development;
- the proposed amendment to the outbuilding is in its length and not its height which may be considered a lesser component in this setting.

Figure 10.1.3(d) – Potential revegetation area that would assist in softening the proposed outbuilding’s visual impact as viewed from the Chapman Valley Road/Morrell Road intersection area



STATUTORY ENVIRONMENT

579 (Lot 306) Chapman Valley Road, Waggrakine is zoned 'Rural' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed in Table 1 as being:

- *To provide for the maintenance or enhancement of specific local rural character.*
- *To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses to the Rural zone.*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses."*

The construction of a farm shed upon Lot 306 would meet with the definition of 'agriculture-extensive' under the *Planning & Development (Local Planning Schemes) Regulations 2015*:

"agriculture — extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

'Agriculture-extensive' is listed as an 'P' use in the 'Rural' zone under the Scheme, that is a use that is permitted if it complies with all relevant development standards and requirements of the Scheme.

Lot 306 is within the 'Special Control Area 2-Moresby Range Landscape Protection Area' zone for which the Scheme notes:

Purpose and Objective	Additional Provisions
The purpose of Special Control Area 2 is the protection of the Moresby Range and associated valleys from development and/or subdivision that will detrimentally affect the landscape values of the area, including preventing development that may lead to problems of erosion. In determining any application for development approval on land within Special Control Area 2, the local government shall give consideration to the purpose of the Special Control Area.	<p>(1) Within SCA 2, no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:</p> <ul style="list-style-type: none"> (a) Clearing to comply with the requirements of the <i>Bush Fires Act 1954</i> (as amended), the local government's Bush Fire Notice and/or any fire management plan endorsed by the local government; (b) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government; and/or (c) Clearing as may be allowed under the Department of Water and Environmental Regulation and Conservation Land Clearing Regulations; (d) Trees that are diseased or dangerous. <p>(2) In the determination of any application for development approval within SCA 2, the local government may, having regard to the purpose of the Special Control Area set out in Part 5 and the assessment criteria detailed in the Moresby Range Management Strategy, require modification of development proposals, or impose conditions of approval regarding:</p> <ul style="list-style-type: none"> (a) The siting of the proposed development; (b) The design and layout of the proposed development; (c) The materials and finishes to be used in the proposed development; (d) The protection of remnant native vegetation or re-vegetation located on the site; (e) The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or (f) The installation and maintenance of vegetation, retaining walls or other works to prevent erosion.

The Scheme also notes the following relevant to this application:

"37 Appearance of land and buildings

- (1) Unless otherwise approved by the local government, no person shall erect any building or other structure which by reason of colour or type of materials, architectural style, height or bulk, ornament or general appearance, has an exterior appearance which is out of harmony with existing buildings or the landscape character of the area.*
- (2) All buildings and land on which they are located within the Scheme area shall be maintained in a manner, which preserves the amenity of the surrounding locality to the satisfaction of the local government.*
- (3) Where in the opinion of the local government an activity is being undertaken that results in the appearance of the property having a deleterious effect on the amenity of the area in which it is located, the local government shall require the owner or occupier to restore or upgrade the conditions of that property to a standard commensurate with those generally prevailing in the vicinity."*

Schedule 2 Part 9 Clause 67(2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters in considering this development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(fa) any local planning strategy for this Scheme endorsed by the Commission;*
- (g) any local planning policy for the Scheme area;...*
- ...(m) the compatibility of the development with its setting including:*
 - (i) the compatibility of the development with the desired future character of its setting; and*
 - (ii) relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*

-
- (n) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
 - (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
 - (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
 - (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;...
 - ...(s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
 - (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...
 - ...(w) the history of the site where the development is to be located;
 - (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...
 - ...(zb) any other planning consideration the local government considers appropriate.”

POLICY/PROCEDURE IMPLICATIONS

Schedule 2 Part 2 Division 2 Clauses 3-6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings has the following objectives:

- “3.1 To alter the deemed to comply provisions of the R-Codes for Outbuildings.
- 3.2 To provide a clear definition of what constitutes an ‘Outbuilding’.
- 3.3 To ensure that Outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.
- 3.4 To limit the visual impact of Outbuildings.
- 3.5 To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding area.
- 3.6 To ensure that the Outbuilding remains an ancillary use to the main dwelling or the principle land use on the property.”

The Outbuildings Policy does not set a maximum height or floor area for ‘Rural’ zoned lots greater than 4ha.

FINANCIAL IMPLICATIONS

Nil

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. It is not considered that the determination of this application would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy identifies the proposed outbuilding location upon Lot 306 as being within Precinct No.4-Moresby Range which has the following vision:

“The Moresby Ranges are visually and environmentally preserved as a landscape feature, natural resource and a recreational and tourist resource for the general population, whilst recognising the rights of existing landowners.”

The Strategy makes the following comment:

“Land uses are commonly lifestyle and small farming activities with some broadacre cereal/sheep rotation on larger holdings which can be sustained. Limited farm diversification is occurring and this has the potential for low-key tourism linked to local industries, farm stays and landscape values in close proximity to established tourist routes. The most limiting factor is that the area has limited accessibility. The local road network consists of gravel formed and paved roads with the exception of Chapman Valley Road constructed to bitumen seal standard.

The Moresby Ranges have been identified in numerous planning studies as having high conservation value in addition some areas have agricultural, landscape, tourism and recreational values. The Precinct is subject to current planning associated with the Moresby Range Management Strategy.

Areas and sites of significance for fauna, flora or habitat conservation, located on private lands are not intended for acquisition by Council. Rather the general aim is in every way possible to encourage and make it easier for landowners to protect and manage the conservation values present. The value of the Moresby Ranges lies in its landscape qualities and remnant vegetation. The protection of these resources should override any pressure for development, however it is considered that the objectives of protection/management for conservation, and those of development do not necessarily have to be in conflict.”

The Local Planning Strategy lists the following relevant objectives for Planning Precinct No.4:

“4.2 Economic Objectives

- 4.2.1** *Promote sustainable agricultural production in suitable areas with due regard of the high conservation values and visual amenity of the Moresby Ranges.*
- 4.2.2** *Encourage agricultural diversification in appropriate areas where there will be no detrimental impact to the surrounding land.*
- 4.2.3** *Promote low-key tourist related land use/development associated with the conservation values and scenic qualities of the Moresby Ranges. To be assessed in conjunction with related strategies and policies.*

4.3 Environmental Objectives

- 4.3.1** *Protect the scenic values and visual amenity of the Moresby Ranges while encouraging suitable tourist development.*
- 4.3.2** *Encourage revegetation and retention of existing vegetation in order to minimise soil erosion.*
- 4.3.3** *Protect and enhance existing catchments, botanical linkages and vegetation/wildlife corridors.*
- 4.3.4** *Promote sound land management practices in consideration of the high conservation values of the area.*
- 4.3.5** *Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc) are avoided through appropriate environmental and planning controls.*
- 4.3.6** *Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.*
- 4.3.8** *Encourage conservation of biodiversity and farm sustainability.*
- 4.3.8** *Promote a detailed planning exercise be undertaken in partnership with all relevant stakeholders for Area A of the Moresby Ranges, depicted on the Precinct Maps as ‘Special Investigation Area – Conservation and Development’, to identify a range opportunities in consideration of current environmental values and constraints.”*

Lot 306 falls within the study boundary of the Moresby Range Management Strategy (WAPC, 2009) which generally identifies visually sensitive areas on the footslopes and steep side slope of the Moresby Range, rather than the mesa, although Sections 4.5.1 and 4.5.2 of the Strategy do make the following recommendations of relevance in the assessment of this application:

“Recommendations: land use and development planning

- 43** *Ensure that land uses and infrastructure are sited and designed to complement the landscape qualities of the range and reduce their overall impact. The key elements of effective landscape planning and design to be considered are:*
 - describing the landscape values that need to be protected;*
 - defining areas that can accommodate more intensive land use or development;*

- selecting suitable land uses and development, including consideration of noise, dust and other potential impacts;
 - providing for a density compatible with retaining landscape values;
 - sensitive siting; and
 - designing buildings and structures to blend into their setting.
- 44 Ensure that buildings, structures and public or private roads are sited and designed to have minimal impact on views of the range and reflect surrounding character, with reference to the manual, *Visual Landscape Planning in Western Australia* (DPI, 2007), so that they:
- Do not dominate the landscape but are compatible in form, scale, bulk, and mass to their setting.
 - Give thought to visually concealing all buildings and associated services, such as delivery and storage areas and necessary infrastructure. Where possible, buildings are to be constructed behind or among trees.
 - Reflect the rural nature of the range and cater for expected level of use, particularly any public or private road, and vehicle manoeuvre areas associated with lookouts;
 - Blend into the surroundings through use of appropriate colour schemes.
 - Take advantage of views to the range through appropriate orientation of roads in new subdivisions."

"Recommendations: flat tops and side slopes, key view corridors and travel routes

- 45 Minimise more intensive land use and development on the flat tops and side slopes and in key view corridors (identified in map 5) that has the potential to be clearly seen and that would adversely affect the landscape values of the view. Permit more intensive land use and development on the flat tops and side slopes and key view corridors only where it can be demonstrated that such land use and/or development is consistent with the objectives of this strategy.
- 46 Support land use and development proposals abutting areas of high landscape significance, as identified in map 6, where it can be demonstrated that the land use and/or development:
- a) will not adversely affect views of the range; and
 - b) enhances opportunities for people to enjoy views of or from the range, or experience the range in some other way.
- 47 Minimise development in key view corridors and travel route corridors (map 5 and map 6 respectively); advocate the siting and design of buildings and structures to have minimum possible impact on key view corridors and from travel routes, and to reflect the surrounding character:
- particular attention should be paid to the location and orientation of large sheds and screening to minimise their impact on views to the range; and
 - lower sites should be chosen, sheds should be orientated perpendicular to the primary view and screening should be provided, whether by vegetation or other development.
- 48 Ensure that future land use or development maintains the landscape value of the foreground when viewed from major travel routes, and that revegetation and landscaping along and near major travel routes does not affect views of the range from these routes.
- 49 Consider the impact remnant vegetation clearing may have on views of the range. Discourage the clearing of remnant vegetation where it forms part of a view corridor from a major travel route."

The Moresby Range Management Strategy recognised that there were particular issues relating to the southern section of the Moresby Range that were of particular importance to the regional community, and recommended that a Management Plan be prepared for this area.

The resulting Moresby Range Management Plan (2010) was prepared jointly by the Shire of Chapman Valley and City of Greater Geraldton to address the section of the Moresby Range immediately south of White Peak Road and east of Geraldton. It is this section that is under the most immediate pressure from a range of demands including urban and rural-residential development from the west, infrastructure corridor alignments to the east and north, recreational demands from the community, economic interest from renewable venture proponents and tourism possibilities.

The consultation that informed the Plan had a general consensus that the community considered the Moresby Range to be an iconic resource that should be accessible for recreation and tourism and that they should not have urban development or significant buildings on the side slopes, along the skyline or on top of the Range.

Figure 4.4 of the Plan provides a map of visually important areas synthesised from information developed by the DPLH between 1998 and 2009, ranking areas as 'features of visual significance', 'visually sensitive areas' and 'broad landscape features that should be preserved and enhanced'. The proposed outbuilding location is outside of these identified areas.

Section 1.5 of the Plan makes the following comment on Visual Landscape Assessment for the Moresby Range and its surrounding landform.

"The WAPC's publication, Visual Landscape Planning in Western Australia – a manual for evaluation, assessment, siting and design, provides concepts and processes for developing guidelines for managing changes to be made in the Range and surrounding landscape. The manual spells out three broad visual management objectives:

- protection and maintenance of valued landscape character;*
- restoration and enhancement of degraded visual landscape character, or opportunities for enhancement;*
- best practice siting and design, where either a combination of the first two objectives may be appropriate, and for all other areas.*

In working to achieve these broad level objectives, the following more specific objectives are relevant:

- "not evident", where development may be hidden, screened or not visible from specified viewing locations;*
- "blending" where development may be evident, but generally not "prominent" in the landscape;*
- "prominent" where development may intentionally be a dominant feature in the landscape.*

The fundamental visual management concept for the Range and its surrounds is that they should have their own identity in the landscape and not be an extension of the city or farmland.

The overall visual management objectives for the Range, subject to the comments below about large structures, would be to "protect and maintain" the existing valued character and to "restore and enhance" degraded bush land areas while, in response to community desires, also preserving some of the agricultural character of certain parts of the Range. Figure 11.5 and 11.6 shows areas that have been identified for restoration and revegetation and includes faces of the Range particularly those that are seen from the City, ridges and edges of elevated areas, linking and enhancing blocks of remnant vegetation and water courses. There are no major developments planned for the Range Precinct except for the Central Facility that will serve as a hub for activities in the rest of the Range Precinct. The visual landscape objective for the majority of the Range Precinct is that developments should be "not evident" and for the Central Facility that it should generally be "blending" with occasional "prominent" structures where their prominence can be used to promote the existence and identity of the Range Precinct. This is reflected in the intention not to create any new roads into the Range Precinct other than using existing tracks or cleared areas, and design structures in an architectural character that interprets the landscape and the history of human activity in the Range.

The areas of land around the Range Precinct can be broadly divided into two categories - the urban areas west of the Range, see Section 4, and the other, non-urban, areas that surround the Range Precinct to the north, east and south. The visual landscape objectives for the lands around the Range Precinct are broadly determined from the MRMS Map 3 - Landscape Classes and Map 510 as it highlights visually sensitive areas located adjacent to the Range."

"01.5.3 Visual Management Objective east and south of the Range Precinct

The objective for these areas are that they should retain their agricultural uses but stabilise the landscape and be revegetated to produce better visual integration between the agricultural areas and the Range Precinct. In this context the visual management objective is to 'restore and enhance' the lower side slopes of the Range, the cleared watercourses and road verges. While it is anticipated that there will be no urban development and minimal new built structures in this area the visual management objective for these areas should be "blending". "

The Chapman Valley Road is a drive of scenic value to both the local community and visitors to the region and Council might consider its role in the assessment of rezoning, subdivision and development as being to protect the natural landscape character of this route to maintain its appeal.

The 'Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design' (WAPC, 2007) generally recommends that vegetation should be retained and development avoided on skylines as seen from important viewing locations and sensitive roads.

The manual notes that development should be sited with care to ensure that individual components that have the potential to draw attention, such as reflective roofs and windows, are not visible. The manual also notes that the forms, colours and textures of a development do not need to be identical to those found in nature, but they need to appear compatible to the extent that any contrasts do not draw attention.

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
<i>Economy and Population</i>				
Objective 2.1 Build population and business activity with targeted strategies				
Strategy: Support business development, lifestyle changes and short/term accommodation				
2.1.1	Ensure planning is in place to encourage business development, promoting investment opportunities, Facilitate collaborative approach to attract staff within communities.	Short	Solid and appropriate planning is in place.	Retain and improve where necessary
Objective 2.4 Ensure town planning scheme allows for economic development/population retention/growth				
Strategy: Town Planning Review for residential land, aged care facilities or business/industrial development opportunities				
2.4.1	Ensure planning is in place to encourage economic development activities, owned and rental accommodation and short stay opportunities	Medium	Solid and appropriate planning is in place.	Retain and improve growth opportunities where indicated
<i>Environment and Sustainability</i>				
Objective 3.3 Build the green canopy of the Shire's town, public facilities and rural areas				
Strategy: To increase the green canopy in building applications, facility development or upgrades, and incentive schemes to get more trees planted				
3.3.1	Commit to planning and planting of shade trees in towns and public buildings and facilities encourage residents to plant shade trees on their properties	Medium	Desire from the Community for more shade trees	Increased number of trees in towns and on rural properties

CONSULTATION

Council is not required to undertake community consultation for this application. However Council may also choose to advertise the application for public comment under Schedule 2 Part 8 Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

RISK ASSESSMENT

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENTS

Simple majority required

Cr Low vacated council chambers at 8:52am.

MOVED: Cr Forth

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant planning approval for the amended application for an outbuilding upon 579 (Lot 306) Chapman Valley Road, Waggrakine subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans as contained within Attachment 10.1.3 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- 4 The development is required to use colours and materials complementary to the natural landscape features, and be to a (non-reflective) finish, to the approval of the local government.
- 5 Installation and maintenance of landscaping about the development for the purposes of screening to the approval of the local government.
- 6 Any lighting devices must be positioned so as to not cause glare to neighbouring properties or vehicles on the Chapman Valley Road or Morell Road to the approval of the local government.
- 7 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) In relation to condition 5 the applicant shall undertake the planting of native trees capable of growing to a height of at least 3 metres to reduce the outbuilding's visual impact, with particular emphasis on the area illustrated in Figure 10.1.3(d) as contained in the Council Agenda Report.
- (c) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

Voting F6/A0

CARRIED

Minute Reference: 11/22-07

Cr Low returned to council chambers at 8:53am.

10.1.4 Proposed Subdivision

PROPOSER:	LandWest for G. Neil
SITE:	50 (Lot 171) Dolbys Drive, Waggrakine
FILE REFERENCE:	A1221
PREVIOUS REFERENCE:	Nil
DATE:	8 November 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref		Title	Attached to Report	Under Separate Cover
10.1.4	Subdivision Application			✓

DISCLOSURE OF INTEREST

Nil

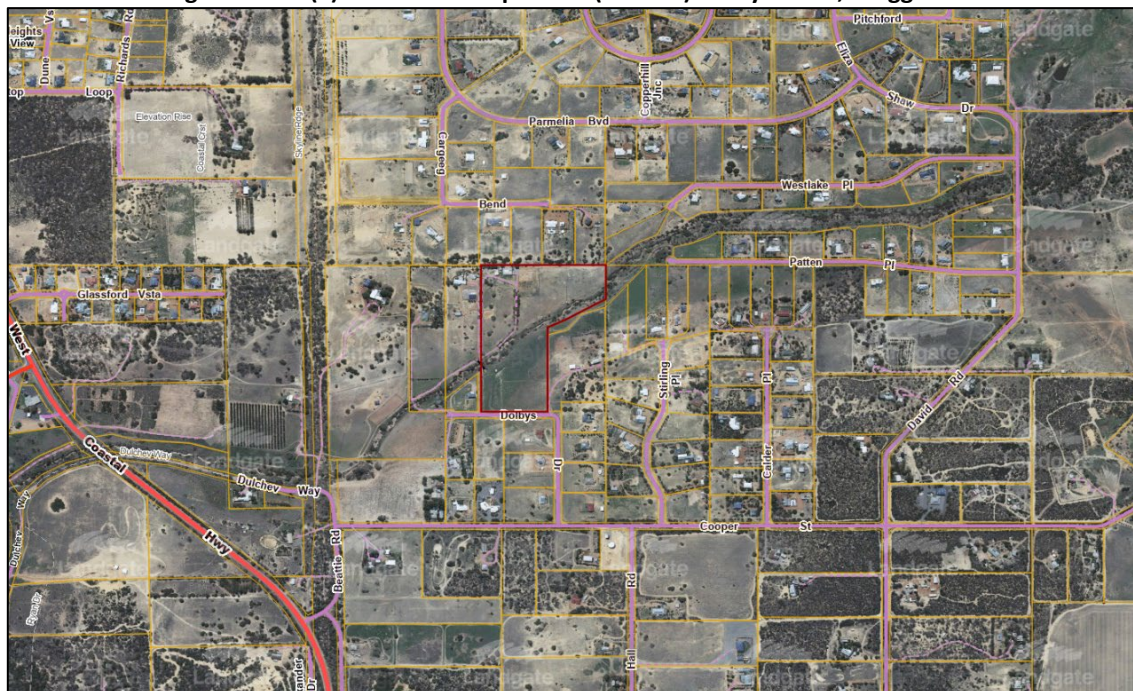
BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission ('WAPC') seeking its comment upon an application to subdivide 50 (Lot 171) Dolbys Drive, Waggrakine. This report recommends approval subject to amendment.

COMMENT

Lot 171 Dolbys Drive is a 9.526ha property that contains a residence and outbuilding located in the north-western corner at the 65m contour. The property slopes downwards from its northern boundary to Dolby Creek which runs east-west through the property at the 50m contour, there is a paddock between the Dolby Creek and Dolbys Drive generally situated at the 55m contour.

Figure 10.1.4(a) – Location Map for 50 (Lot 171) Dolbys Drive, Waggrakine



The residence upon Lot 171 gains access across Dolby Creek via a concrete culvert crossing point and gravel driveway that is half owned (with reciprocal access rights for the other half) by the landowner of Lot 171 and neighbouring Lot 31 to the west.

Figure 10.1.4(b) – Aerial photo of 50 (Lot 171) Dolbys Drive, Waggrakine



The application is seeking to subdivide Lot 171 into the following:

- 2 vacant lots (1.215ha and 1.7147ha) on the south side of Dolby Creek with directly frontage onto Dolbys Drive;
- 5.1655ha balance lot on the north side of Dolby Creek that would contain the existing buildings that would gain access to Dolbys Drive via a 10m wide battleaxe driveway access leg along the existing driveway/right of carriageway easement;
- 1.431ha reserve along the Dolby Creek watercourse, the subdivision plan includes notation that *“final alignment and width foreshore reserve to be determined on site with Department of Water and Environmental Regulation. The final alignment and area may vary at time final survey from that indicated on this plan”*.

A copy of the subdivision application inclusive of the consultants' explanatory letter of support and bushfire management report has been provided as **separate Attachment 10.1.4**.

Lot 171 is located within the land area addressed by the Dolbys Drive Structure Plan which is discussed in the Strategic Implications section of this report.

The subdivision plan generally accords with the structure plan layout although the structure plan does allow for 3 lots to be created on the south side of Dolby Creek. The applicant was made aware that there was the opportunity to create an additional lot fronting Dolbys Drive but have chosen to create 2 larger lots instead.

Figure 10.1.4(c) – Subdivision Plan for 50 (Lot 171) Dolbys Drive, Waggrakine

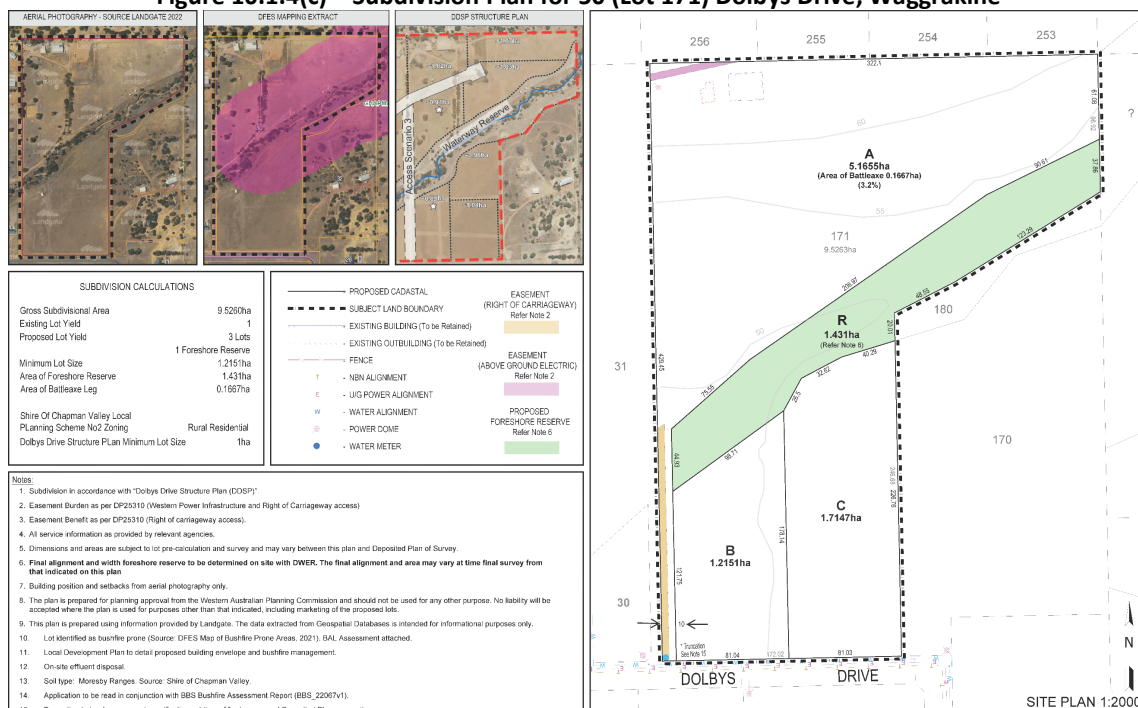


Figure 10.1.4(d) – View from Dolby Creek looking north at proposed 5.1655ha balance lot area



Figure 10.1.4(e) – View from Dolbys Drive looking north-east at proposed 1.2151ha & 1.7147ha lot area



STATUTORY ENVIRONMENT

Lot 171 Dolbys Drive, Waggrakine is zoned 'Rural Residential 1' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

Figure 10.1.4(f) – Shire of Chapman Valley Local Planning Scheme Zoning Map extract

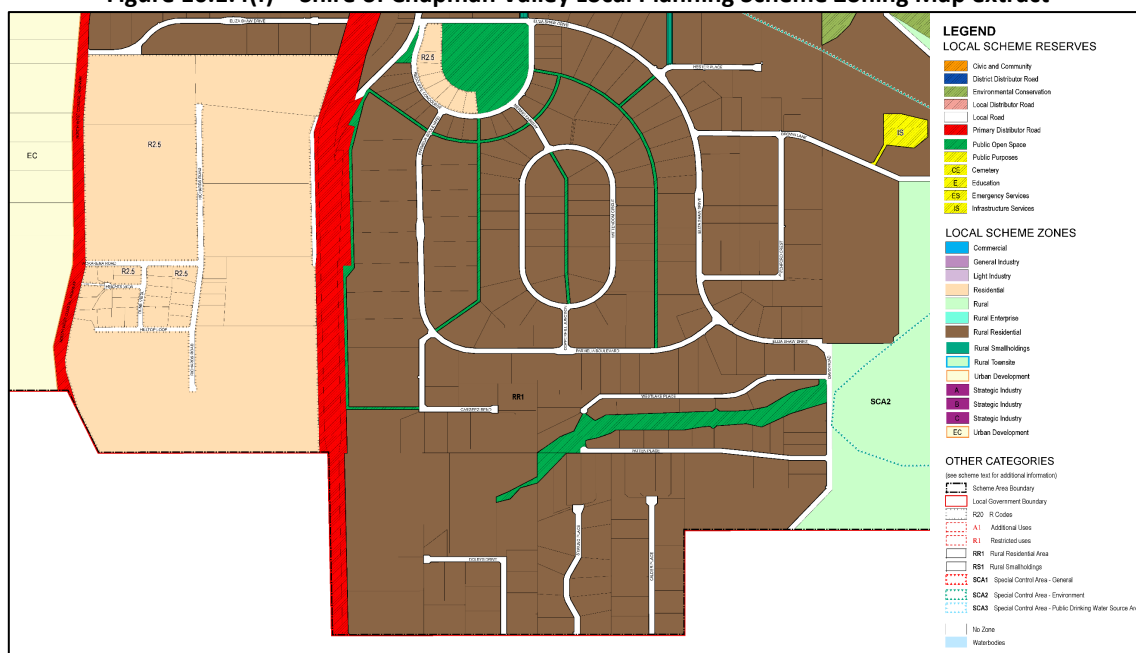


Table 2 of the Scheme lists the objectives of the 'Rural Residential' zone as being:

- To provide for lot sizes in the range of 1 ha to 4 ha.
- To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.
- To set aside areas for the retention of vegetation and landform or other features which distinguish the land."

Schedule 5 of the Scheme lists the following of relevance in the 'Rural Residential' zone to this subdivision application:

"1 Structure Plan

-
- (a) Subdivision, development and land use shall generally be in accordance with a structure plan as adopted by the local government and the Western Australian Planning Commission in accordance with Part 4 of the deemed provisions;
- (b) Subdivision, development and land-use shall generally be in accordance with any other matters outlined on the structure plan...
- ...3 Vegetation...
- ... (b) Re-vegetation of identified areas with the intent of rehabilitating degraded land or for screening purposes may be required on consideration of subdivision or development applications.
- 4 Foreshores/Watercourses
- (a) At the time of subdivision, the local government may request that the Western Australian Planning Commission impose conditions requiring that an Urban Water Management Plan and/or Watercourse Management Plan be prepared and implemented.
- (b) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring suitable arrangements to be made for the ceding of foreshore reserves or management and/or rehabilitation of foreshores retained in private ownership.
- (c) Vehicle and pedestrian crossings over watercourses shall be designed and constructed to minimise impact on their natural form and function.
- 5 Fire Management
- (a) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring the preparation of a fire management plan; and
- (b) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring a contribution toward firefighting facilities in the district.
- 6 Vehicular Access
- (a) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring the construction of any roads, battle-axe access legs, or shared access legs required to provide adequate vehicular access to the proposed lots; and
- (b) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring a contribution to the upgrading of the local road system.
- (c) At time of development approval, the local government may require a crossover to be constructed to the specifications of the Shire and/or Main Roads WA.
- 7 Fencing
- (a) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring the installation of boundary fencing and fencing around areas of remnant vegetation and/or re-vegetation. All such fences are to be constructed to control stock to the satisfaction of local government and maintained in good condition thereafter to the satisfaction of the local government; and
- (b) Prior to the stocking of any particular lot, the local government may require that areas of remnant vegetation within or adjoining the lot shall be protected by stock proof fencing to the specification and satisfaction of the local government. All such fences are to be maintained in good condition thereafter to the satisfaction of the local government.
- 8 Advice to Prospective Purchasers
- (a) At time of subdivision, the local government may request that the Western Australian Planning Commission impose condition/s requiring the subdivider to advise prospective purchasers of the special provisions contained herein and any other provisions of the Scheme considered relevant by the local government."

Schedule 6 'Rural Residential 1' of the Scheme also lists the following of relevance to this subdivision application:

“4 The following fencing requirements shall apply:

- (a) The minimum standard of fencing shall be seven line ringlock with single strand wire on top, with pine posts at six metre separation;
- (b) The subdivider shall construct perimeter boundary fencing to the minimum standard at each stage of subdivision.
- (c) The developer shall fence all bridle trails to the minimum standard as the bridle trails are developed at each progressive stage of subdivision.
- (d) Prior to final approval of subdivision of the land, the watercourse and all remnant vegetation (excluding areas for fire control, driveway access and servicing) shall be protected from livestock by means of fencing to an appropriate standard as prescribed by the local government.
- (e) All other fencing shall be constructed by individual landowners to the minimum standard, prior to the issue of a building permit.”

POLICY/PROCEDURE IMPLICATIONS

Schedule 2 Part 2 Division 2 Clauses 3-6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

Council has prepared Shire of Chapman Valley Local Planning Policy 7.5 – Subdivision Standards a copy of which can be viewed at the following link: <https://www.chapmanvalley.wa.gov.au/local-planning-policies.aspx>

A Local Planning Policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

FINANCIAL IMPLICATIONS

Nil.

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. It is not considered that the determination of this application would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Dolbys Drive Structure Plan was prepared to address the 38ha area comprised of 6 individually owned lots, zoned ‘Rural Residential’ each of which contain a residence, and are all capable of being further subdivided.

Given that the Dolbys Drive Structure Plan area is under multiple ownership, and several of the landowners had differing timeframes for subdivision, the Shire assumed the role of lead agency to resolve the matter.

The strategic direction for this area established by the Greater Geraldton Structure Plan (2011) and the Shire of Chapman Valley Local Planning Strategy (2007) is for rural-residential lots of approximately 1ha. This direction is addressed in the Dolbys Drive Structure Plan, with some minor lot size variation where subdividers are required to provide land for public open space (similar to the precedent established further east along Dolby Creek in the Patten Place/Westlake Place subdivision) or land for potential highway alignment, or to enable flexibility in the provision of an access point across the Dolby Creek.

The Dolbys Drive Structure Plan was adopted by Council at its 15 February 2017 meeting and approved by the WAPC on 15 August 2017 and the Dolbys Drive Structure Plan document can be viewed at the following link to the WAPC website:

<https://www.wa.gov.au/system/files/2021-11/SPL-SPN2075-Chapman-Valley-Dolby-Drive.pdf>

Figure 10.1.4(g) – Dolbys Drive Structure Plan Figure 11 - Indicative Lot Layout



The key issues the Dolbys Drive Structure Plan was required to address were:

- designation of an appropriate reserve along Dolby Creek to assist in the strategic goal of providing a recreation and wildlife corridor between the coast and Moresby Range (the width of the reserve as proposed by the structure plan was established through on-site walking of the watercourse by representatives from the Shire and the Department of Water and Environmental Regulation);
- regard for the requirements of Main Roads WA in relation to the proposed Primary Distributor Road alignment as identified by the Greater Geraldton Structure Plan along the western boundary of the structure plan area;
- identification of a crossing location to enable subdivision of the land north of Dolby Creek, the structure plan has taken the view that to identify one crossing location would be unnecessarily constraining on an area under multiple ownership, and therefore identified 3 potential crossing locations that would enable landowners' to act independently of one another if necessary, and the creation of the first crossing location on-ground would guide the pattern of further subdivision (with the other 2 locations then not being required);
- preparation of a Local Water Management Strategy to coordinate stormwater management;
- bushfire hazard assessment to ensure development upon the future lots could achieve a Bushfire Attack Level rating of 29 or less.

The proposed subdivision layout for Lot 171 would retain the flexibility to pursue Access Scenario 3 across the Dolby Creek at a later time should the landowners of Lot 171 and Lot 31 (to the west) seek to subdivide the northern portions of their lots independent of Access Scenario 1 or 2 having been created (by a prior subdivision).

The Dolbys Drive Structure Plan notes the following regarding the creek crossing access scenarios:

"Figure 9: Movement

Access scenarios as shown provide options for access across Dolby Creek. Three alternative scenarios are provided to ensure flexibility due to the fragmented nature of landholding, the need for landowners to cooperate in providing access, and the varied development aspirations and timeframes of landowner.

Only one access scenario will be required to be constructed.

Access scenarios 2 and 3 are located on the existing creek crossings. These crossings will be retained via easements (if the access scenario is not built) to provide for emergency access."

“2.8.2 Access scenarios

The structure plan proposes three access scenarios. The rationale for identifying three access options are:

- Fragmented ownership.*
- Development timeframe aspirations of landowners differ, and will also change as there is likelihood that parcels may change hands (be sold) during the life of the structure plan.*
- If only one access option is identified it may limit when other landowners can develop if they are dependent on others. The provision of access options will allow development to occur independent of other landowners development intentions.*
- A series of possible scenarios is presented as the most flexible approach.*

The structure plan currently comprises six lots and the structure plan access option will depend on which landowner chooses to subdivide first. Option one proposes an access way from Dulchev Way and options two and three propose access off Dolbys Drive.”

The Shire has been working towards achieving a recreational and native vegetation corridor along the Dolby Creek with the ultimate long-term strategic vision of linking the Moresby Range and the coast with a walking trail and wildlife corridor.

The subdivision of Lot 171 represents an opportunity to create another section of this corridor as a reserve.

Figure 10.1.4(h) – View on the Moresby Range looking west along Dolby Creek to the ocean



Figure 10.1.4(i) – Existing Dolby Creek Reserve marked in red and Lot 171 marked in blue



Shire staff recommend that the subdivision application be supported subject to modification that the section of the proposed battleaxe access leg (right of reciprocal carriageway) between the southern edge of the foreshore reserve boundary and Dolbys Drive instead be created as a road reserve.

This amendment would retain the ability of the landowners of Lot 171 and 31 to drive along it to gain access to their properties but would also provide the wider community recreational advantage of creating a walking trail between Dolbys Drive and the Dolby Creek foreshore. The creation of this section as a road reserve would also provide improved emergency (particularly fire fighting) vehicle access into Dolby Creek.

It is suggested that the road reserve not be extended further northwards than the southern edge of the foreshore reserve (i.e. the remaining length be retained as battleaxe access leg) so that the concrete culvert is retained within private ownership and responsibility, as it is not constructed to a standard that is suitable for a road reserve.

Figure 10.1.4(j) – View of reciprocal right of carriageway easement (right hand side forms part of Lot 171)



Figure 10.1.4(k) – View of culvert shared by Lots 171 and 31 to cross Dolby Creek



The created foreshore reserve will enable the existing walk trail that runs from David Road to be extended westwards. Whilst the anticipated Shire assets ultimately within the corridor would be limited to a walk trail and potentially some limestone benches, similar to those constructed elsewhere along Dolby Creek, the Shire must be mindful that when Dolby Creek does experience a flow event it can be quite significant as illustrated in **Figure 10.1.4(l)** which was taken 1km downstream at the Chapman Road crossing.

On this basis the support of the presented subdivision application is subject to the dimensions of the foreshore reserve being identified on-site at time of survey by Department of Water & Environmental Regulation and Shire staff to ensure that it is of sufficient width to protect future Shire assets such as a walking trail.

Figure 10.1.4(l) – Dolby Creek during 1 in 200 year rainfall event



Figure 10.1.4(m) – Area of Lot 171 looking west that would become part of Dolby Creek foreshore reserve



Figure 10.1.4(n) – Example of Dolby Creek foreshore reserve previously created by subdivision further east



Lot 171 is located within Precinct No.7 – South West of the Shire of Chapman Valley Local Planning Strategy (2008). Figures 4 and 11 of the Local Planning Strategy identify Lot 171 as being 'Existing Rural Residential'.

The subdivision application can be considered to accord with the following objectives of the Local Planning Strategy:

- “7.1.2 Encourage the rezoning and subdivision of land into Rural Smallholdings and Rural Residential lots in accordance with Figure 4 as a rounding off the greater northern Geraldton area.”*
- “7.2.3 Ensure that Urban and Rural Residential development are adequately serviced by existing services and infrastructure that includes connection to a potable scheme water supply.”*
- “7.3.3 Ensure that land use and development adjacent to and in proximity to coastal and river areas incorporate appropriate environmental protection based on natural resource management measures.”*

The consideration of this subdivision should be undertaken with regard for the following objectives of the Local Planning Strategy:

- “7.3.5 Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.”*
- “7.4.1 Enhance the standards of servicing and infrastructure commensurate with urban development standards (i.e. bitumen sealed roads, reticulated water, underground power etc.).*
- 7.4.2 Ensure adequate levels of servicing and infrastructure, as determined by Council, exist or will be provided when supporting proposals for a change in land use/development or subdivision, to avoid burden (financial or otherwise) on the Council’s resources.*
- 7.4.3 Identify, support and facilitate the efficient and coordinated use of existing road linkages.”*

The Local Planning Strategy addresses subdivision within Precinct No.7 - South West as follows:

“Council may support the subdivision/amalgamation of land within this Precinct, having due regard to the objectives of the Precinct, in the following circumstances:

- e) For urban and rural residential purposes in accordance with the Greater Geraldton Structure Plan 1999 development subject to structure planning, a potable reticulated scheme water supply, detailed land capability/suitability assessment and appropriate rezoning.”*

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
Community Health and Lifestyle				
Objective 1.1: Nurture the sense of community throughout the Shire while maintaining/supporting the differing residential groups and volunteers				
Strategy: Development of plans and strategies relevant to emerging population needs				
1.1.1	Review existing plans and develop new plans as required	Ongoing	Monitor existing plans to ensure they remain current and pursue funding opportunities should they arise	Policies & Plans remain relevant and implemented as funding becomes available
Objective 1.5: To maximise health and lifestyle outcomes through environment and health strategies				
Strategy: To adopt an integrated approach to the provision of services to address the wider health and wellbeing of the community.				
1.5.1	To develop and adopt a public health plan for the Shire of Chapman Valley	Short	Health Plan development in progress	There is a plan for public health that will support strategies and projects
Economy and Population				
Objective 2.3: Embrace local tourism & regional strategies and trails.				
Strategy: Seek opportunities to establish more recreational trails in the Shire for local population and visitors				
2.3.3	Determine potential trail sites and carry out feasibility studies that include types of	Short	Reviews of potential sites and feasibility studies to be considered such as	More trails established and promoted to community and visitors

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
	users, costs, and environmental risks		Moresby Range and Coronation Beach	
<i>Environment and Sustainability</i>				
Objective 3.2 Maintain the rural identity of the Shire				
Strategy: Develop western peri-urban environment in context to rural lifestyle				
3.2.1	Ensure planning is in place to encourage peri-urban development activities	Ongoing	Solid and appropriate planning is in place.	Retain and improve where necessary

CONSULTATION

The WAPC is not obliged to undertake public consultation in its assessment of subdivision applications, but has referred the application out to the Shire of Chapman Valley, Department of Biodiversity, Conservation & Attractions, Department of Fire and Emergency Services, Department of Health, Water Corporation and Western Power seeking comment.

RISK ASSESSMENT

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENTS

Simple majority required

MOVED: Cr Batten

SECONDED: Cr Elliott-Lockhart

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council advise the Western Australian Planning Commission that it supports the proposed subdivision of Lot 171 Dolbys Drive, Waggrakine as shown upon Plan No.22145-01 (WAPC date stamped 18/10/22) subject to the following modification, conditions and advice notes:

Requested Modification:

The length of the proposed battleaxe access leg between Dolbys Drive and the southern boundary of the proposed foreshore reserve instead being created as a 10m wide road reserve.

Requested Conditions:

- 1 The proposed foreshore reserve shown on the approved plan of subdivision being shown on the deposited plan of survey as a Reserve for Recreation and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown.
- 2 The foreshore reserve being free of any building (including fencing) projections associated with existing site development to the requirements of the local government. (local government)
- 3 A walking trail/strategic fire break to be constructed on both banks of the Dolby Creek within the foreshore reserve at the subdivider's cost to the requirements of the local government. (local government)
- 4 Uniform fencing to be constructed along the boundaries of all proposed lots abutting the foreshore reserve and road reserve(s) at the subdivider's cost to the requirements of the local government. (local government)

-
- 5 The road reserve (as referenced in the requested modification) being shown on the deposited plan of survey as a road reserve, inclusive of truncation at the intersection with Dolbys Drive, and such land to be ceded free of cost and without any payment of compensation by the Crown.
 - 6 Notification, pursuant to section 70A of the *Transfer of Land Act 1893* shall be placed on the Certificate of Title of proposed Lot A advising of the existence of a hazard or other factor. Notice of this notification is to be included on the deposited plan of survey. The notification is to state as follows: *"This lot has connection to Dolbys Drive via a crossing of Dolby Creek that may be subject to occasional inundation denying access."*
 - 7 Notification, pursuant to section 70A of the *Transfer of Land Act 1893* shall be placed on the Certificate of Title of proposed Lots B & C advising of the existence of a hazard or other factor. Notice of this notification is to be included on the deposited plan of survey. The notification is to state as follows: *"Finished floor levels shall be established above the 1 in 100 year flood level and in the absence of detailed flood information, not less than 0.5m above the existing ground surface."*
 - 8 Notification, pursuant to Section 70A of the *Transfer of Land Act 1893* shall be placed on the Certificate of Title of proposed Lots A, B & C. Notice of this notification is to be included on the deposited plan of survey. The notification is to state as follows *"A reticulated sewerage service is not available to the lot/s."*
 - 9 Arrangements being made with the Water Corporation for the provision of a suitable water supply service to each lot shown on the approved plan of subdivision. (Water Corporation)
 - 10 Arrangements being made with Western Power for the provision of an underground electricity distribution system that can supply electricity to each lot shown on the approved plan of subdivision. (Western Power).

Requested Advice Notes:

- (a) In regards to condition 1 the width of the foreshore reserve shall be determined on-site at survey stage to the requirements of the Department of Water and Environmental Regulation and the local government.
- (b) In regards to condition 3 the local government advises that the walking trail/strategic fire break shall be installed to a 3m wide gravel standard and the alignment on both banks shall be immediately adjacent to the foreshore reserve fencing. The local government further advises that it will accept a financial contribution by the subdivider towards the construction of the walking trail/strategic fire break to subsequently then be constructed by the local government in lieu of the works being undertaken by the subdivider.
- (c) In regards to condition 4 the local government advises that fencing shall be installed to a minimum standard of 7 line ring lock with single strand wire on top and pine posts at 6m separation, fencing to the requirements of the local government.

Voting F7/A0
CARRIED
Minute Reference: 11/22-08

10.2

Manager of Finance & Corporate Services

10.2 AGENDA ITEMS

10.2.1 Financial Management Report

10.2.1 Financial Management Report

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	Nil
DATE:	17 November 2022
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	October 2022 Financial Management Reports		✓
10.2.1(b)	Confidential List of Accounts October 2022		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Local Government (Financial Management) Regulations require monthly statements of financial activity to be reported and presented to Council.

COMMENT

The financial position at the end of October 2022 are detailed in the monthly management report provided as a separate attachment for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As presented in the Financial Management Report for October 2022

Long Term Financial Plan (LTFP):

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

Strategic Community Plan/Corporate Business Plan:

Ref	Objective	Strategy	Action
5.1	Ensure governance and administration systems, policies and processes are current and relevant	Review policy categories and set ongoing accountability for review processes	Review current Council and Management policies and formalise update process and timelines.

CONSULTATION

Not applicable

RISK ASSESSMENT

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of financial activity. Risk rating is considered Level 1 – Insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr Davidson

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the month of October 2022 comprising the following:

Statement of Financial Activities with notes

Note 1 – Net Current Assets

Note 2 – Cash & Financial Assets

Note 3 – Receivables

Note 4 – Other Current Assets

Note 5 – Payables

Note 6 – Rate Revenue

Note 7 – Disposal of Assets

Note 8 – Capital Acquisitions

Note 9 – Borrowings

Note 10 – Lease Liabilities

Note 11 – Cash Reserves

Note 12 – Other Current Liabilities

Note 13 – Operating Grants and Contributions

Note 14 – Non Operating Grants and Contributions

Note 15 - Trust Funds

Note 16 - Explanation of Material Variances

Additional Information

Summary of Payments

Bank Reconciliation

Credit Card Statement

Voting F7/A0

CARRIED

Minute Reference: 11/22-09

10.3

Chief Executive Officer

10.3 AGENDA ITEMS

10.3.1 Covid Leave Policy Update 2022

Jamie Criddle, Simon Lancaster & Beau Raymond declared an interest in item 10.3.1.

MOVED: Cr Forth

SECONDED: Cr Royce

Council resolves to allow Jamie Criddle to remain in chambers for discussion on item.

Voting F7/A0

CARRIED

Minute Reference: 11/22-09

Simon Lancaster & Beau Raymond left the chambers 9:01am

10.3.1 Covid Leave Policy Update 2022

PROPONENT:	Shire of Chapman Valley
SITE:	Whole of Shire
FILE REFERENCE:	901.00
PREVIOUS REFERENCE:	03/20-18, 10/22-08
DATE:	8/11/2022
AUTHOR:	Jamie Criddle, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.1	Covid Leave Policy 2022	✓	
10.3.2	Covid-19 Employee Return to Work Plan	✓	

DISCLOSURE OF INTEREST

As this matter contains advice related to terms or conditions of all employees, the following Officers have declared a financial interest in the matter:

- Chief Executive Officer
- Deputy CEO
- Acting Manager Finance & Corporate Services

BACKGROUND

COVID-19 is a significant public health issue, leading Australian Government employers to take the lead in preventing and managing its spread in the community and workplaces. It is likely that some staff may contract the virus at some stage over the coming months, if not already, which may have a significant impact on sick leave entitlements available to staff. Special, time limited arrangements to practically deal with the emerging health issues are therefore considered through the development of the COVID-19 leave policy.

Council discussed this issue in March 2020 knowing that Covid-19 may have a significant impact on sick leave entitlements available to staff. This resulted in Council resolving to deal with the emerging health issue by introducing a fourteen 14 day additional Covid-19 leave allocation to Council employees.

"OCM 20 March 2020

MOVED: Cr Farrell

SECONDED: Cr Warr

Council introduce a maximum of up to 14 working days paid personal and/or carers leave for staff in the event of absence for imposed isolation due to the COVID-19 virus. To be implemented at the discretion of the CEO.

Voting F8/A0

CARRIED

Minute Reference: 03/20-18"

While Council did not introduce a policy per say, it did resolve (above) to introduce additional leave and is included on staff files as a reference.

Council have since resolved to formulate a Policy that outlines the Council's responsibilities as well as the rights of the employees. This policy is also outlines the suggested procedures for taking leave whilst with Covid as an employee or an Elected Member.

COMMENT

Local Governments still have an obligation to provide a safe and healthy working environment for its employees and Elected Members and ensure others are also not put at risk. Local Governments are encouraged to conduct a safety risk assessment and think about the approach that will be adopted when mandatory isolation ends on 14th October 2022. Local Governments should consider implementing or amending an existing policy for managing employees who test positive to COVID-19 whilst meeting any applicable consultation obligations under Work Health and Safety legislation, enterprise/industrial agreements, and the relevant award(s).

1. COVID-19 Leave for Staff

1.1 Objective

This policy outlines the provision of additional paid leave for employees in response to the COVID-19 pandemic under circumstances where an absence from the usual workplace is unforeseen and the conditions under which it may be taken. It is important that the provision of additional paid leave for employees be considered in conjunction with the following policies:

- CMP-042 Annual Leave
- CMP-054 Working From Home
- CMP-059 Leave without Pay

1.2 Policy

Paid Pandemic Leave Allocation

Full Time and Part Time employees are entitled to up to 5 days COVID-19 leave per annum (38 hours for a Full Time employee, pro rata for part time employees) following an applicable confirmed diagnosis of COVID-19, a positive PCR or Rapid Antigen Test or in the event that they are mandated to quarantine or self-isolate by the WA Department of Health in the case of exposure to a locally transmitted case. Other circumstances related to COVID-19 and the application of this leave may be granted or declined at the CEO's discretion. Each 'day' of COVID-19 leave will be calculated according to the rostered or ordinary hours an employee would have worked on that day.

Mandatory Pandemic Leave

All Full time and Part time employees who test positive to COVID-19 are required to self-isolate for a period of at least two (2) days prior to considering to return to work, regardless if they have no symptoms and/or have no accrued leave available, the employee should be asked to work from home where possible. If it is not possible for the employee to work from home, the Local Government is to consider measures such as asking the employee to wear a mask or physical distance at work (i.e. moving them to duties where they work alone). If an employee works remotely and alone and there is no risk to themselves or others, then the employee could attend work as usual. Deep cleaning practices should be adhered to during this occurrence.

Employees can access the Paid Pandemic Leave Allocation or other leave entitlements if they require more than the 5 days leave allocated per annum or elect not to use the pandemic leave. These include:

- Annual Leave – at half or full pay
- Long Service Leave – at half, full or double pay
- Personal Leave
- Leave without Pay – once all other leave types are exhausted

For New employees with insufficient accrued leave, the CEO be allowed discretion to approve additional leave (provided the Annual Budget allocation is not extinguished).

Working Arrangements

Working from home is encouraged (within five days of contraction) where it is available and where you feel it is safe to do.

Measures such as asking the employee to wear a mask or physical distance at work (i.e. moving them to duties where they work alone). If an employee works remotely and alone and there is no risk to themselves or others, then the employee could attend work as usual.

The provision of Microsoft Teams and Zoom access is preferred to attending official meetings.

1.3 Procedure

a) Employees should read this policy and discuss it with their Line Manager and/or their People and Development representative.

b) The employee requesting COVID-19 leave must submit a leave request through the Payroll officer, and include the required evidence as outlined in 1.2 Policy - Paid Pandemic Leave Allocation.

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- c) Upon approval, the employee is to remain in contact with their Line Manager to arrange a return to work/work from home timing.
- d) Complete the COVID-19 Return to Work Plan and return to their Line Manager/Payroll Officer.

2. COVID-19 Leave for Elected Members

2.1 Objective

This policy outlines the relationship between the Local Government and the Elected Member and the obligation to provide a safe and healthy working environment for its employees and Elected Members and ensure others are also not put at risk. Local Governments are encouraged to conduct a safety risk assessment and think about the approach that will be adopted when mandatory isolation ends on 14th October 2022. Local Governments should consider implementing or amending an existing policy for managing employees who test positive to COVID-19 whilst meeting any applicable consultation obligations under Work Health and Safety legislation, enterprise/industrial agreements, and the relevant award(s).

2.2 Policy

Pandemic Leave Allocation

Elected Members are not considered employees of the Local Government and therefore not eligible for Paid Pandemic Leave.

Following positive test to COVID-19, Elected Member are required to self-isolate from Council duties for a period of at least two (2) days prior to considering to return to 'in-person' duties regardless if they have no symptoms.

Working Arrangements

Working from home is encouraged (within five days of contraction) where it is available and where it is felt it is safe to do.

Measures such as asking the Elected Member to wear a mask or physical distance during 'in-person' duties.

The provision of Microsoft Teams and Zoom access is preferred to attending official meetings.

2.3 Procedure

- a) Elected Members should read this policy and discuss it with the Chief Executive Office and Shire President following a positive test and discuss a 'Return to Normal Duties' plan.

STATUTORY ENVIRONMENT

Statutory Environment

- Local Government Industry Award 2010
- Operations Team Enterprise Bargaining Agreement 2016
- National Employment Standards

POLICY/PROCEDURE IMPLICATIONS

New Policy CP-026

FINANCIAL IMPLICATIONS

The provision of additional sick leave proposed in the COVID-19 Leave policy, will amount to the cost of one weeks salary for the organization, which is approximately \$25,000. This is not an additional cost for Shire but is the value of the potential lost productivity if all staff access the maximum leave provisions of the policy.

STRATEGIC IMPLICATIONS

COVID-19 was not identified or planned for in the Shire's Strategic Community Plan or Corporate Business Plan.

The Shire is currently reviewing its Corporate Business Plan, which is expected to be completed in the coming months prior to June 2023.

CONSULTATION

- Internal
- State Government WA
- Other Local Governments

RISK ASSESSMENT

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies

VOTING REQUIREMENTS

Absolute Majority

Jamie Criddle left the chambers 9:01am

MOVED: Cr Batten

SECONDED: Cr Elliott-Lockhart

STAFF RECOMMENDATION/COUNCIL RESOLUTION

That Council ADOPTS Council Policy CP-026 - COVID-19 Leave, as contained within attachment 10.3.1, including approving an amendment to the sick leave allocation to five (5) days as per for those staff that meet the eligibility criteria of the policy from Council resolution 03/20-18 to adhere to recent updates to National Policy via the National Cabinet Decision on 30th September 2022.

Voting F6/A1

CARRIED

Minute Reference: 11/22-10

Jamie Criddle, Simon Lancaster & Beau Raymond returned to chambers 9:39am

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

13.0 DELEGATES REPORTS

Delegate	Reports
Cr Elliott-Lockhart	Storytowns Podcast Event
Cr Low	DFES - Be Disaster Ready Meeting
Cr Forth	New Jobs Program Teams Meeting
Cr Warr	Melissa price- Canberra LARC-catch up with ARLF officers in Canberra Local cyclone recovery meeting Shane Love Be disaster ready workshop ABS census WALGA webinar Local leaders group catch up

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

15.0 MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC

Nil

16.0 CLOSURE

The President thanked Elected Members and Staff for their attendance and closed the meeting at 10:00am